



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: April 3, 2013

Time: 7:00 p.m.

For information regarding this Agenda please contact:

Randi Johl, City Clerk
Telephone: (209) 333-6702

6:55 p.m. Invocation/Call to Civic Responsibility. Invocations/Calls may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. These are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

C-1 Call to Order / Roll Call – N/A

C-2 Announcement of Closed Session – N/A

C-3 Adjourn to Closed Session – N/A

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action – N/A

A. Call to Order / Roll Call

B. Presentations

- B-1 Presentation of Certificate of Recognition to Miss San Joaquin 2013 MacKenzie Freed (CLK)
- B-2 National Public Safety Telecommunicators Week Proclamation (PD)
- B-3 National Animal Control Officers Appreciation Week (PD)
- B-4 Sexual Assault Awareness Month Proclamation (CLK)
- B-5 National Library Week Proclamation (LIB)
- B-6 Presentation of Library Volunteer of the Year Award (LIB)
- B-7 Presentation of American Public Power Association Reliable Public Power Provider Award (EUD)

C. Consent Calendar (Reading; Comments by the Public; Council Action)

- C-1 Receive Register of Claims in the Amount of \$2,645,493.75 (FIN)
- C-2 Approve Minutes (CLK)
 - a) March 19, 2013 (Shirtsleeve Session)
 - b) March 20, 2013 (Regular Meeting)
- C-3 Approve Specifications and Authorize Advertisement for Bids for Katzakian Park Restroom Repair Project (PW)

Res. C-4 Adopt Resolution Approving Sole Source Procurement of Dock Components for Lodi Lake from Northshore EZ Dock and Appropriating Funds (\$25,896.80) (PRCS)

- Res. C-5 Adopt Resolution Approving Purchase of Kubota Mower from Dolk Tractor Company, of Rio Vista (\$28,720) (PRCS)
- Res. C-6 Adopt Resolution Awarding Contract for Hutchins Street Square Kirst Hall Heating, Ventilation, and Air Conditioning Replacement Project to Division 5-15, of Gold River (\$72,795), and Appropriating Funds (\$80,000) (PW)
- C-7 Accept Improvements Under Contract for 2012 Extruded Thermoplastic Lane Line Markings for Various City Streets (PW)
- C-8 Accept Improvements Under Contract for 2012 Utility Frame and Cover Adjustment Project, Various Locations (PW)
- C-9 Accept Improvements Under Contract for City Hall Parking Lot Reconstruction Project (PW)
- Res. C-10 Adopt Resolution Establishing Written Protest Procedures for Federally-Funded Transit Procurements (PW)
- Res. C-11 Adopt Resolution Approving the Agreement Between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for the Summer Swim League Program (PRCS)
- Res. C-12 Adopt Resolution Appropriating \$1,750 from the Art in Public Places Fund for the Heritage School Watershed Mosaic Project (PRCS)

D. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

Public comment may only be made on matters within the Lodi City Council's jurisdiction (Government Code Section 54954.3, Lodi City Council Protocol Manual Section 6.3I). The Council cannot take action or deliberate on items that are not on this agenda unless there is an emergency and the need to take action on that emergency arose after this agenda was posted (Government Code Section 54954.2(b)(2)). All other items may only be referred for review to staff or placement on a future Council agenda.

E. Comments by the City Council Members on Non-Agenda Items

F. Comments by the City Manager on Non-Agenda Items

G. Public Hearings – None

H. Communications

- H-1 Post for Expiring Terms on the Greater Lodi Area Youth Commission (CLK)

I. Regular Calendar

- I-1 Designation of One Council Member to Participate in the Selection Process for Auditing Services (CM)

J. Ordinances

- Ord. J-1 Adopt Ordinance No. 1872 Entitled, "An Ordinance of the Lodi City Council Amending Lodi (Adopt) Municipal Code Chapter 13.20 – Electrical Service – by Repealing and Reenacting Section 13.20.315, 'Schedule EDR – Economic Development Rate,' in Its Entirety" (CLK)
- Ord. J-2 Adopt Ordinance No. 1873 Entitled, "An Ordinance of the Lodi City Council Amending Lodi (Adopt) Municipal Code Chapter 13.20 – Electrical Service – by Adding Section 13.20.325, 'Schedule EV – Electric Vehicle Pilot Charging Rate'" (CLK)
- Ord. J-3 Adopt Ordinance No. 1874 Entitled, "An Ordinance of the City Council of the City of Lodi (Adopt) Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Repealing and Reenacting Lodi Municipal Code Chapter 9.12, 'Fires, Firearms and Fireworks,' in Its Entirety; and Further Repealing and Reenacting Chapter 9.13, 'Sale of Fireworks,' in Its Entirety" (CLK)

K. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.



Randi Johl
City Clerk

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REGULAR COUNCIL MEETING OF THE LODI CITY COUNCIL

April 3, 2013

Regular Meeting – 7:00 p.m.

- C-1 Call to Order / Roll Call – N/A**
- C-2 Announcement of Closed Session – N/A**
- C-3 Adjourn to Closed Session – N/A**

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

- C-4 Return to Open Session / Disclosure of Action – N/A**
- A. Call to Order / Roll Call**

Presentations



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Presentation of Certificate of Recognition to Miss San Joaquin 2013
MacKenzie Freed

MEETING DATE: April 3, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Nakanishi to present Certificate of Recognition to Miss
San Joaquin 2013 MacKenzie Freed.

BACKGROUND INFORMATION: The Mayor will present a Certificate of Recognition to MacKenzie
Freed for recently being crowned Miss San Joaquin 2013.
Miss Freed is a role model to her peers and works tirelessly to
create a positive impact within our community.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

A handwritten signature in blue ink, appearing to be "Randi Johl", written over a horizontal line.

Randi Johl
City Clerk

RJ/JMR

APPROVED:

A handwritten signature in blue ink, appearing to be "Konrad Bartlam", written over a horizontal line.

Konrad Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation of Proclamation Proclaiming the Week of April 7-13, 2013, as "National Public Safety Telecommunicators Week"

MEETING DATE: April 3, 2013

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Presentation of proclamation proclaiming the week of April 7-13, 2013, as "National Public Safety Telecommunicators Week."

BACKGROUND INFORMATION: National Public Safety Telecommunicators Week is a national event to recognize the men and women who dispatch our police forces, our ambulances and our firefighters. Although they are not as visible as the men and women who arrive at the scene of emergencies, they are equally important to the safety and level of service provided to our community.

Every day, in all of our communities, dedicated public safety telecommunicators answer calls for assistance. They dispatch our calls for help to police and fire departments, facilitating the execution of emergency rescue vehicles and law-enforcement operations in our city.

We depend upon public safety telecommunicators to notify emergency personnel promptly, clearly, and calmly. We depend on them to keep our loved ones calm and assured in an emergency. We depend on them for guidance and support in our most frantic and panicked moments.

The Lodi Police Department has 16 dispatcher/jailers, three Lead dispatchers and one dispatch supervisor working 12-hour shifts. Lodi is one of the very few departments in the state where dispatchers not only staff the Communications Center for business and 911 calls, they also serve as jailers; booking, processing and providing care for prisoners while they await arraignment in court or transfer to other agencies. Several of the dispatchers are also cross-trained to work special assignments such as court liaison, field evidence technicians and members of the Hostage Negotiations Team.

A representative of the Police Department Communications Center will be present to accept the proclamation.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not applicable.

Mark Helms
Chief of Police

MH/pjt

APPROVED:
Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Presentation of Proclamation Proclaiming the Week of April 7-13, 2013, as "National Animal Control Officer Appreciation Week"

MEETING DATE: April 4, 2012

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Presentation of proclamation proclaiming the week of April 7-13, 2013, as "National Animal Control Officer Appreciation Week."

BACKGROUND INFORMATION: National Animal Control Officer Appreciation Week is a national event to recognize the men and women who handle all calls related to wild and domestic animals in distress.

Every day, in all of our communities, dedicated Animal Services Officers answer calls for assistance. They rescue animals in danger, investigate situations of alleged animal abuse and neglect, transport injured animals to veterinary hospitals for care, and regularly educate pet owners about responsible pet care.

We depend upon Animal Services Officers to fulfill the Animal Services Division's commitment to providing the highest and most efficient level of customer service. They are dedicated to the health, safety, and protection of the citizens and animals of Lodi.

The Lodi Police Department has one Assistant Animal Services Officer and one Animal Services Supervisor who work 9-hour shifts.

A representative of the Police Department Animal Services Division will be present to accept the proclamation.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not applicable.

Mark Helms
Chief of Police

MH/pjt

APPROVED:

Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Sexual Assault Awareness Month Proclamation

MEETING DATE: April 3, 2013


PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Nakanishi present proclamation proclaiming the month of April 2013 as "Sexual Assault Awareness Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation proclaiming the month of April 2013 as "Sexual Assault Awareness Month" in the City of Lodi. Kristi Barnard with the Women's Center Youth & Family Services will be at the meeting to accept the proclamation.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.



Randi Johl
City Clerk

APPROVED: 

Konrad Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: National Library Week Proclamation

MEETING DATE: April 3, 2013

PREPARED BY: Library Services Director

RECOMMENDED ACTION: Mayor Nakanishi present a proclamation proclaiming the week of April 14 – 20, 2013 as "National Library Week."

BACKGROUND INFORMATION: Mayor Nakanishi has been requested to present a proclamation proclaiming the week of April 14 -- 20, 2013 as "National Library Week." Dean Gualco, Interim Library Director, will be present to accept the proclamation.

FISCAL IMPACT: Not applicable

FUNDING AVAILABLE: Not applicable



Dean Gualco
Interim Library Director

DG/adw

APPROVED:



Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Library Volunteer of the Year Award

MEETING DATE: April 3, 2013

PREPARED BY: Library Services Director

RECOMMENDED ACTION: Scot Martin, Member of the Library Board of Trustees, present the 2013 Library Volunteer of the Year Award to Anita McKeever.


BACKGROUND INFORMATION: In 2001, the Library Board of Trustees established the Bob Hildreth Library Volunteer of the Year Award to be given to the library volunteer who contributed significantly to the support of library services for the Lodi Public Library and the residents of Lodi.

The 2013 recipient of this service award is Anita McKeever. Mrs. McKeever has been active with the Friends of the Lodi Public Library since 2001. Recently she has undertaken co-management of the Friends' Book Store. In that capacity she has redesigned the Book Store, making it more inviting and attractive. She works many hours to accomplish the smooth running and effective service of the Book Store.

The Friends of the Lodi Public Library all appreciate Anita's cheerfulness, hard work, and dedication in support of the Lodi Public Library.

FISCAL IMPACT: Not applicable

FUNDING AVAILABLE: Not applicable



Dean Gualco
Interim Library Director

DG/adw

APPROVED: 

Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation of American Public Power Association Reliable Public Power Provider Award

MEETING DATE: April 3, 2013

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Presentation of American Public Power Association Reliable Public Power Provider Award.

BACKGROUND INFORMATION: The American Public Power Association (APPA) Reliable Public Power Provider (RP3) Program recognizes utilities that demonstrate high proficiency in four areas: reliability, safety, work force development and system improvement. Criteria within each of the four RP3 areas are based upon sound business practices, recognized industry best practices, and represent a utility-wide commitment to safe and reliable delivery of electricity. The RP3 Program shines a light on publicly owned utilities for the excellent service they provide their customers.

The City of Lodi Electric Utility Department was recognized on March 25, 2013 at the APPA annual Engineering & Operations Technical Conference, held in Kissimmee, Florida.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not applicable.


Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Elizabeth A. Kirkley, Electric Utility Director

EAK/lt

APPROVED: 
Konradt Bartlam, City Manager

C-1



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Register of Claims through March 14, 2013 in the Total Amount of \$2,645,493.75.

MEETING DATE: April 3, 2013

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$2,645,493.75.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$2,645,493.75 through 03/14/13. Also attached is Payroll in the amount of \$1,188,629.92.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: As per attached report.

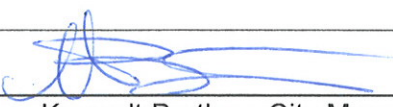


Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____


Konradt Bartlam, City Manager

Accounts Payable
Council Report

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Date - 03/20/13

As of Thursday	Fund	Name	Amount
03/14/13	00100	General Fund	1,579,559.75
	00123	Info Systems Replacement Fund	786.56
	00160	Electric Utility Fund	43,956.34
	00161	Utility Outlay Reserve Fund	2,097.40
	00164	Public Benefits Fund	10,580.82
	00166	Solar Surcharge Fund	25,951.38
	00170	Waste Water Utility Fund	36,913.07
	00171	Waste Wtr Util-Capital Outlay	463.30
	00180	Water Utility Fund	34,467.57
	00181	Water Utility-Capital Outlay	401,366.27
	00210	Library Fund	11,531.12
	00260	Internal Service/Equip Maint	25,065.48
	00270	Employee Benefits	16,002.98
	00300	General Liabilities	1,845.57
	00321	Gas Tax-2105,2106,2107	14,843.33
	00325	Measure K Funds	231.86
	00329	TDA - Streets	8,012.31
	00332	IMF(Regional) Streets	6,054.25
	00337	Traffic Congestion Relf-AB2928	121,987.68
	00338	IMF-Regional Transportation	13,595.97
	00340	Comm Dev Special Rev Fund	2,054.44
	00347	Parks, Rec & Cultural Services	26,663.36
	00459	H U D	4,491.18
	00502	L&L Dist Z1-Almond Estates	352.80
	00503	L&L Dist Z2-Century Meadows I	309.49
	00505	L&L Dist Z4-Almond North	67.14
	00506	L&L Dist Z5-Legacy I,II,Kirst	506.79
	00507	L&L Dist Z6-The Villas	437.48
	00509	L&L Dist Z8-Vintage Oaks	201.42
	00515	L&L Dist Z13	30.97
	00517	L&L Dist Z15-Guild Ave Indust.	29.90
	01211	Capital Outlay/General Fund	25,675.63
	01212	Parks & Rec Capital	6,597.00
	01250	Dial-a-Ride/Transportation	5,685.53
	01251	Transit Capital	126,711.02
	01252	Transit-Prop. 1B	60,144.84
	01410	Expendable Trust	13,329.01
Sum			2,628,601.01
	00184	Water PCE-TCE-Settlements	84.00
	00190	Central Plume	14,577.13
	00192	Busy Bee Plume	2,231.61
Sum			16,892.74
Total Sum			2,645,493.75

Council Report for Payroll

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Date - 03/20/13

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	03/17/13	00100	General Fund	719,860.44
		00160	Electric Utility Fund	132,939.62
		00161	Utility Outlay Reserve Fund	10,004.90
		00170	Waste Water Utility Fund	109,850.70
		00180	Water Utility Fund	14,374.69
		00210	Library Fund	29,185.36
		00235	LPD-Public Safety Prog AB 1913	2,263.62
		00239	CalGRIP	756.35
		00260	Internal Service/Equip Maint	15,509.20
		00321	Gas Tax-2105,2106,2107	24,693.08
		00340	Comm Dev Special Rev Fund	23,610.04
		00347	Parks, Rec & Cultural Services	98,053.41
		01250	Dial-a-Ride/Transportation	7,528.51
Pay Period Total:				
Sum				1,188,629.92



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Approve Minutes
a) March 19, 2013 (Shirtsleeve Session)
b) March 20, 2013 (Regular Meeting)

MEETING DATE: April 3, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) March 19, 2013 (Shirtsleeve Session)
b) March 20, 2013 (Regular Meeting)

BACKGROUND INFORMATION: Attached are copies of the subject minutes marked Exhibit A through B, respectively.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

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Randi Johl
City Clerk

Attachments

APPROVED:

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Konradt Bartlam, City Manager



**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 19, 2013**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 19, 2013, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Absent: None

Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Receive Information on Harney Lane Grade Separation Project Environmental Review and Design (PW)

City Manager Rad Bartlam briefly introduced the subject matter of the status of the Harney Lane/Highway 99 Grade Separation Project.

Public Works Director Wally Sandelin and Consultant Rob Himes of the Mark Thomas Company provided a PowerPoint presentation regarding the status of the Harney Lane grade separation project. Specific topics of discussion included the location of the project, project development process, overhead alternative with embankment, selection process, environmental studies, landscaping elements, visual impacts, and next steps toward project completion.

In response to Council Member Mounce, Mr. Sandelin stated the new landscaping will be maintained by the City through the General Fund, a community facilities district for the area could help to offset the landscaping costs in the future, approximately 1,100 residential units are anticipated to be constructed in the Reynolds Ranch development by 2016, and the overpass construction is expected to be completed close to that time frame as well.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the cost of the project remains the same as originally estimated at approximately \$20 million.

In response to Council Member Hansen, Mr. Thomas confirmed there will be sidewalks on the overpass but not down Harney Lane.

In response to Mayor Nakanishi, Mr. Thomas stated trees on an embankment approach are standard for these types of projects and the projected landscaping is preliminary in design.

In response to Council Member Hansen, Mr. Thomas stated the utilities involved in the utility relocation include AT&T, Lodi Electric, PG&E, and other City utilities.

In response to Council Member Mounce, Mr. Sandelin confirmed that staff has already been having discussions with AT&T and it understands the time line for the project.

In response to Council Member Hansen, Mr. Sandelin confirmed that Hutchins Street to Highway 99 will be four lanes at project completion.

In response to Gary Armstrong, Mr. Thomas reviewed the location of the planned service road

and fence area as shown on the visual impacts slide.

In response to Greg Costa, Mr. Bartlam stated future sound wall construction and additional landscaping would be the responsibility of the developer of the site and specific requirements are not outlined at the current time to retain flexibility for either residential or commercial development. Mr. Thomas confirmed that the sidewalks will be symmetrical. Mr. Costa indicated a preference for a public hearing after the cherry picking season ended in late June.

In response to Mayor Nakanishi, Mr. Sandelin stated funds for the \$20 million project included \$11 million in federal funds, \$2 million in PUC funds, \$1 million in railroad funds, \$1 million in local funds, and various other sources make up the remainder.

In response to Council Member Hansen, Mr. Thomas briefly reviewed the time line associated with additional project reports, after which the project will come back to the City Council for approval.

In response to Mayor Nakanishi, Mr. Sandelin stated he will provide the anticipated cost estimate for the grade separation landscaping as requested.

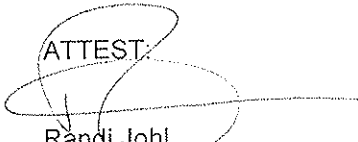
In response to Council Member Johnson, Mr. Thomas stated the project is eligible for 190 funding in the approximate amount of \$5 million and the chances of receiving the funds are good because the project is ranked 10 on the list.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:40 a.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 20, 2013**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of March 20, 2013, was called to order by Mayor Nakanishi at 6:45 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Absent: None

Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Prospective Lease of City Property Located at 125 South Hutchins Street, Lodi, CA, for Camp Hutchins and Adult Day Care Programs; the Negotiating Parties are Lodi Health and the City of Lodi; Price and Terms of the Lease are under Negotiation; Government Code §54956.8

C-3 Adjourn to Closed Session

At 6:45 p.m., Mayor Nakanishi adjourned the meeting to a Closed Session to discuss the above matter. The Closed Session adjourned at 6:55 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Nakanishi reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following action.

Item C-2 (a) was discussion only with no reportable action.

A. Call to Order / Roll Call

The Regular City Council meeting of March 20, 2013, was called to order by Mayor Nakanishi at 7:00 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Absent: None

Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Presentations

B-1 Keep Lodi Beautiful Month Proclamation (CD)

Mayor Nakanishi presented a proclamation to Neighborhood Services Manager Joseph Wood declaring the month of April 2013 as "Keep Lodi Beautiful Month" in the City of Lodi.

B-2 Quarterly Update from the Greater Lodi Area Youth Commission (PRCS)

Emily Yamane and MJ Sidhu, members of the Greater Lodi Area Youth Commission, gave an

update on the activities and accomplishments of the Commission.

C. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$10,850,106.42 (FIN)

Claims were approved in the amount of \$10,850,106.42.

C-2 Approve Minutes (CLK)

The minutes of March 5, 2013 (Shirtsleeve Session), March 6, 2013 (Regular Meeting), and March 12, 2013 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Stockton Street Improvements (PW)

Approved the plans and specifications and authorized advertisement for bids for Stockton Street Improvements.

C-4 Approve Plans and Specifications and Authorize Advertisement for Bids for 2013 Asphalt Rubber Cape Seal Project, Various Streets (PW)

Approved the plans and specifications and authorized advertisement for bids for 2013 Asphalt Rubber Cape Seal Project, Various Streets.

C-5 Approve Plans and Specifications and Authorize Advertisement for Bids for Alley Improvement Project - Phase 4 (PW)

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to approve the plans and specifications and authorize advertisement for bids for Alley Improvement Project - Phase 4.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Abstentions: Council Member Mounce

Absent: None

C-6 Accept Improvements Under Contract for Roget Park Improvements, 2229 Tienda Drive (PW)

This item was pulled for further discussion by Council Member Johnson.

In response to Council Member Johnson, Mr. Bartlam stated there is a shared boundary between Roget Park and the Eden Senior Housing Project. Mr. Bartlam confirmed that the area referenced for improvement is the responsibility of the project developer and the fence will not remain.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to accept the improvements under contract for Roget Park Improvements, 2229 Tienda Drive.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

C-7 Adopt Resolution Awarding Contract for 2013 GrapeLine Bus Stop Improvements to A.M. Stephens Construction Company, Inc., of Lodi (\$117,396.25) (PW)

Adopted Resolution No. 2013-34 awarding contract for 2013 GrapeLine Bus Stop Improvements to A.M. Stephens Construction Company, Inc., of Lodi, in the amount of \$117,396.25.

C-8 Adopt Resolution Awarding Contract for Lodi Transit Station Concrete Pavement Project, 28 South Sacramento Street, to A.M. Stephens Construction, Inc., of Lodi (\$117,417.60), and Appropriating Funds (\$61,000) (PW)

Adopted Resolution No. 2013-35 awarding contract for Lodi Transit Station Concrete Pavement Project, 28 South Sacramento Street, to A.M. Stephens Construction, Inc., of Lodi, in the amount of \$117,417.60, and appropriating funds in the amount of \$61,000.

C-9 Adopt Resolution Authorizing the City Manager to Execute Task Order No. 25 of the Master Professional Services Agreement for PCE/TCE Cleanup with Treadwell & Rollo, a Langan Company, of San Francisco (\$23,500), and Appropriating Funds (\$28,000) (PW)

Adopted Resolution No. 2013-36 authorizing the City Manager to execute Task Order No. 25 of the Master Professional Services Agreement for PCE/TCE cleanup with Treadwell & Rollo, a Langan Company, of San Francisco, in the amount of \$23,500, and appropriating funds in the amount of \$28,000.

C-10 Adopt Resolution Authorizing the City Manager to Execute Agreements with the Following Entities for the Water Meter Program Phase 3 Project and Appropriating Funds (\$3,164,200): a) Awarding Water Meter Installation Contract to Knife River Construction, of Stockton (\$2,898,200); b) Task Order No. 5 with RMC Water and Environment, of Walnut Creek, for Engineering Services (\$36,000); and c) Neil O. Anderson and Associates, of Lodi, for Construction Testing and Inspection Services (\$300,000) (PW)

Adopted Resolution No. 2013-37 authorizing the City Manager to execute agreements with the following entities for the Water Meter Program Phase 3 Project and appropriating funds in the amount of \$3,164,200: a) awarding water meter installation contract to Knife River Construction, of Stockton, in the amount of \$2,898,200; b) Task Order No. 5 with RMC Water and Environment, of Walnut Creek, for engineering services in the amount of \$36,000; and c) Neil O. Anderson and Associates, of Lodi, for construction testing and inspection services in the amount of \$300,000.

C-11 Adopt Resolution Authorizing the City Manager to Execute Professional Services

Agreement with Empire Today, LLC, of Union City, through U.S. Communities Bid Process for City Hall Carpet Replacement Project (\$70,780) and Appropriating Funds (\$80,000) (PW)

Adopted Resolution No. 2013-38 authorizing the City Manager to execute Professional Services Agreement with Empire Today, LLC, of Union City, through U.S. Communities bid process for City Hall Carpet Replacement Project in the amount of \$70,780 and appropriating funds in the amount of \$80,000.

C-12 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement for Purchase and Installation of Alerton Energy Mangement System for Carnegie Forum with Sole Supplier L & H Airco, of Roseville (\$117,950), and Appropriating Funds (\$130,000) (PW)

Adopted Resolution No. 2013-39 authorizing the City Manager to execute Professional Services Agreement for purchase and installation of Alerton Energy Mangement System for Carnegie Forum with sole supplier L & H Airco, of Roseville, in the amount of \$117,950, and appropriating funds in the amount of \$130,000.

C-13 Adopt Resolution Approving Contract Amendment Agreement with AECOM Technical Services for the Development of the Climate Action Plan (CD)

Adopted Resolution No. 2013-40 approving contract amendment agreement with AECOM Technical Services for the development of the Climate Action Plan.

C-14 Adopt Resolution Authorizing the City Manager to Sign a Lease Agreement with Lodi Health for Operation of Camp Hutchins Day Care Program (PRCS)

Items C-14 and C-15 were pulled by a member of the public for further discussion.

Ed Miller spoke in regard to his concerns about Hutchins Street Square operating in the black instead of red with respect to C-14 and C-15. Mr. Bartlam provided a brief overview of the issues at hand including the expired lease, adult day care now paying for utilities and interior maintenance at a net to the City, and the Camp Hutchins proposed rental amount based on market value per square foot.

Doug Cheney spoke in opposition to the proposed lease based on concerns about recovering the City's costs associated with the rental of the space by Lodi Health for operating Camp Hutchins.

Suzann Limb spoke in favor of the proposed lease with Lodi Health based on the benefits of the Camp Hutchins program for families in the community.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2013-44 authorizing the City Manager to sign a lease agreement with Lodi Health for operation of Camp Hutchins Day Care Program.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

C-15 Adopt Resolution Authorizing the City Manager to Sign a Lease Agreement with Lodi

Health for Operation of the Adult Day Care Program at Hutchins Street Square (PRCS)

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2013-45 authorizing the City Manager to sign a lease agreement with Lodi Health for operation of the Adult Day Care Program at Hutchins Street Square.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

C-16 Adopt Resolution Authorizing the City Manager to Execute Master Service Agreement for Software Services with Spinnaker Support, LLC, of Denver, CO (\$31,250) (CM)

Adopted Resolution No. 2013-41 authorizing the City Manager to execute Master Service Agreement for software services with Spinnaker Support, LLC, of Denver, CO, in the amount of \$31,250.

C-17 Adopt Resolution Approving Administrative Fire Captain Assignment Side Letter Amending the 2012-2013 Memorandum of Understanding Between the City of Lodi and the Lodi Professional Firefighters (CM)

Adopted Resolution No. 2013-42 approving Administrative Fire Captain Assignment Side Letter amending the 2012-2013 Memorandum of Understanding between the City of Lodi and the Lodi Professional Firefighters.

C-18 Adopt Resolution of Intention to Disestablish the Downtown Lodi Business Improvement District Area No. 1 and Set Public Hearing for April 17, 2013, to Consider Introducing an Ordinance to Repeal Lodi Municipal Code Chapter 12.06 to Disestablish the Downtown Lodi Business Improvement Area No. 1 (CA)

Adopted Resolution No. 2013-43 of intention to disestablish the Downtown Lodi Business Improvement District Area No. 1 and set public hearing for April 17, 2013, to consider introducing an ordinance to repeal Lodi Municipal Code Chapter 12.06 to disestablish the Downtown Lodi Business Improvement Area No. 1.

C-19 Set Public Hearing for May 15, 2013, to Consider Adopting Resolution Setting Pre-Approved Engineering News Record Adjustment Index for Wastewater Rates for Residential, Commercial, and Industrial Customers (PW)

This item was pulled for further discussion by a member of the public.

John Slaughterback spoke in regard to his concerns about recovering funds that may have been lost due to a reduction in developer impact fees and its affect on the rates.

Council Member Mounce made a motion, second by Council Member Johnson, to set the public hearing for May 15, 2013, to consider adopting resolution setting pre-approved Engineering News Record adjustment index for wastewater rates for residential, commercial, and industrial customers.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi
Noes: None
Absent: None

- D. Comments by the Public on Non-Agenda Items
THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. Public comment may only be made on matters within the Lodi City Council's jurisdiction (Government Code Section 54954.3, Lodi City Council Protocol Manual Section 6.3I). The Council cannot take action or deliberate on items that are not on this agenda unless there is an emergency and the need to take action on that emergency arose after this agenda was posted (Government Code Section 54954.2(b)(2)). All other items may only be referred for review to staff or placement on a future Council agenda.

Clifford Weaver spoke in regard to his concerns about transit operating times and the transit reservation system. In response to Council Member Mounce, Mr. Bartlam stated a transit-related meeting can be scheduled in the near future to discuss the application process for disability certification and other related transit matters.

Vincent Sayles spoke in regard to the benefits of physical exercise and staying healthy.

- E. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce reported on her attendance at a recent League of California Cities meeting and explained the importance of preserving Enterprise Zones.

Mayor Nakanishi commended the volunteers and underwriters of the Bethel Church crab feed for hosting such a successful event.

- F. Comments by the City Manager on Non-Agenda Items

City Manager Bartlam wished Mayor Nakanishi a Happy Birthday on behalf of staff.

- G. Public Hearings

- G-1 Public Hearing to Approve Draft 2013/14 Action Plan for the Community Development Block Grant Program (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the public hearing to consider approving the Draft 2013/14 Action Plan for the Community Development Block Grant (CDBG) Program.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the CDBG Action Plan. Specific topics of discussion included the estimated allocation, application process, funding availability, public service funding, draft action plan, and next steps.

In response to Council Member Johnson, Mr. Wood stated the \$40,000 amount for graffiti abatement is based on average time and costs for removal in the target area and any funds that are not used for services must be reallocated toward a project.

In response to Council Member Hansen, Mr. Wood stated he spoke to the Deputy Director at County Health Services in charge of the Meals-on-Wheels program and they are still reviewing the feasibility of operating the program based on a recent review by the Commission on Aging.

In response to Council Member Hansen, Mr. Wood confirmed that the fair housing mandate must be met through CDBG funding or the General Fund.

In response to Council Member Mounce, Mr. Wood confirmed that Fair Housing scored 74, it did rate higher in previous years, and it would not qualify otherwise based on its current rating number.

Mayor Nakanishi opened the public hearing.

The following individuals spoke in opposition to funding the spay and neuter and graffiti removal program. They spoke in support of funding programs that provide basic needs to families including food, shelter, health care, and utility assistance:

Francisco Trujillo
Maria Rosas
Maria Luisa Rufino
Irena Velasco
Shanelle Brady
Doug Cheney
Bob Wetzel

Dale Gillespie, representing Loel Center, spoke in support of the CDBG allocation to the Loel Center for its capital improvement project.

Mayor Nakanishi closed the public hearing.

In response to Council Member Johnson, Mr. Wood stated Community Partnership did not apply for CDBG funds this year. Mr. Trujillo indicated the agency did not apply because the funds were largely already allocated to spay and neuter and graffiti removal.

Council Member Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2013-46 approving Draft 2013/14 Action Plan for the Community Development Block Grant Program.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

G-2 Public Hearing to Consider Adopting Resolution Approving Contractual Consumer Price Index Based Annual Adjustment to Rates for Solid Waste Collection (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the public hearing to consider adopting resolution approving contractual Consumer Price Index based annual adjustment to rates for solid waste collection.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the proposed adjustment to the solid waste collection rates and specifically discussed the existing contract, Consumer Price Index (CPI) adjustment factor, County gate fees, and example rate information.

Mayor Nakanishi opened the public hearing and receiving no comments closed the public hearing.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2013-47 approving contractual Consumer Price Index based annual adjustment to rates for solid waste collection.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katakian, and Mayor Nakanishi

Noes: None

Absent: None

G-3 Public Hearing to Consider Introducing an Ordinance Amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by Repealing and Reenacting Section 13.20.315, "Schedule EDR - Economic Development Rates," in Its Entirety (EUD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the public hearing to consider introducing an ordinance amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by repealing and reenacting Section 13.20.315, "Schedule EDR - Economic Development Rates," in its entirety.

Business Development Manager Rob Lechner provided a brief PowerPoint presentation regarding the proposed amendment to the ordinance and specifically discussed the existing economic development rates, current participation, and proposed changes.

In response to Council Member Hansen, Mr. Lechner stated currently there is a 50-50 split between businesses who are contacting staff for the incentive information before they hire new employees versus after they hire new employees.

In response to Mayor Pro Tempore Katakian, Mr. Lechner and Mr. Bartlam confirmed that the goal is to remain flexible with respect to incentives and discounts so as to best serve the need of the business whether that is in hook-up costs or an overall rate discount.

In response to Council Member Johnson, Mr. Lechner stated staff continues to review options for assistance from an economic perspective for businesses including when a customer increases their load capacity and goes from one tier to another.

In response to Mayor Nakanishi, Mr. Lechner reviewed the names of the 13 new businesses from the past year.

Mayor Nakanishi opened the public hearing and receiving no comment closed the public hearing.

Council Member Johnson made a motion, second by Council Member Mounce, to introduce Ordinance No. 1872 amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by repealing and reenacting Section 13.20.315, "Schedule EDR - Economic Development Rates," in its entirety.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor

Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

G-4 Public Hearing to Consider Introducing an Ordinance Amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by Adding Section 13.20.325, "Schedule EV - Electric Vehicle Pilot Charging Rate" (EUD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the public hearing to consider introducing an ordinance amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by adding Section 13.20.325, "Schedule EV - Electric Vehicle Pilot Charging Rate."

Business Development Manager Rob Lechner provided a brief PowerPoint presentation regarding the proposed ordinance and specifically discussed the proposed electric vehicle charging rate and times and the purpose of the pilot program.

In response to Council Member Mounce, Mr. Lechner stated it is \$250 to install the additional meter and there may be a need for different stations if the 220v and 110v charge is not compatible.

A brief discussion ensued amongst Council Member Hansen, Mr. Bartlam, and Mr. Lechner regarding the preferred time period for the discount so as to not affect peak load hours.

In response to Mayor Pro Tempore Katzakian, Mr. Lechner stated the Tier 1 residential rate is approximately 11.1. Mr. Bartlam stated the potential of abuse may exist and staff will watch the numbers accordingly.

Mayor Nakanishi opened the public hearing.

Ed Miller spoke in regard to his concerns about costs associated with the program and the potential for abuse.

Mayor Nakanishi closed the public hearing after receiving no additional public comments.

In response to Mayor Nakanishi, Mr. Lechner and Mr. Bartlam confirmed that there are no additional costs associated with the program other than staff time and the seven public charging stations in the City were grant funded.

Council Member Mounce made a motion, second by Council Member Hansen, to introduce Ordinance No. 1873 amending Lodi Municipal Code Chapter 13.20 - Electrical Service - by Adding Section 13.20.325, "Schedule EV - Electric Vehicle Pilot Charging Rate" with the amended hours of 8:00 p.m. to 6:00 a.m. and the flat rate of Tier 1 for residential.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

H. Communications

H-1 Monthly Protocol Account Report (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the cumulative Monthly Protocol Account Report through February 28, 2013.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

I. Regular Calendar

I-1 Introduce Ordinance Repealing and Reenacting Lodi Municipal Code Chapter 9.12, "Fires, Firearms and Fireworks," in Its Entirety; and Further Repealing and Reenacting Chapter 9.13, "Sale of Fireworks," in Its Entirety (CA)

City Attorney Schwabauer provided a brief overview of the proposed amendments to the ordinance as set forth in the Council Communication.

In response to Council Member Mounce, Fire Marshal Gene Stoddart stated the number of citations from illegal fireworks before and after the implementation of the ordinance have remained approximately the same. Mr. Bartlam stated the primary benefit of the program is that it does provide some funding for illegal fireworks enforcement.

Council Member Hansen made a motion, second by Council Member Johnson, to introduce Ordinance No. 1874 repealing and reenacting Lodi Municipal Code Chapter 9.12, "Fires, Firearms and Fireworks," in its entirety; and further repealing and reenacting Chapter 9.13, "Sale of Fireworks," in its entirety.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Katzakian, and Mayor Nakanishi

Noes: None

Absent: None

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:05 p.m., in memory of Lodi resident Robin Rushing who passed away on March 19, 2013.

ATTEST:



Randi Johl
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Katakian Park Restroom Repair Project

MEETING DATE: April 3, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for Katakian Park Restroom Repair Project.


BACKGROUND INFORMATION: This project provides for the necessary repairs at the restroom facilities at Katakian Park. In 2012, a fire was started in a trash can adjacent to the park restroom. A portion of the restroom building caught on fire and sustained damages from both the fire and emergency responders. The majority of the damage was in the men's restroom, which has been closed since the time of the fire.

The improvements consist of replacing a variety of structural and finishing components to improve aesthetics, security, and safety. The improvements will also allow the City to once again provide separate men's and women's facilities rather than the temporary unisex restroom that has been provided since the time of the fire.

The specifications are on file in the Public Works Department. The planned bid opening date is April 24, 2013. The project estimate is \$17,500.

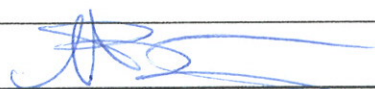
FISCAL IMPACT: The project will not have an impact to the maintenance costs of the facility but will reduce the City's liability associated with a damaged structure.

FUNDING AVAILABLE: Funding will be identified at project award.


F. Wally Sandelin
Public Works Director

Prepared by Sean Nathan, Associate Engineer
FWS/SN/pmf
cc: Park Superintendent

APPROVED:



Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Sole Source Procurement of Dock Components for Lodi Lake from Northshore EZ Dock, and Appropriating Funds (\$25,896.80)

MEETING DATE: April 3, 2013

PREPARED BY: Parks, Recreation and Cultural Services Director

RECOMMENDED ACTION: Adopt resolution approving sole source procurement of dock components for Lodi Lake from Northshore EZ Dock and appropriating funds in the amount of \$25,896.80.

BACKGROUND INFORMATION: The City purchased a floating dock system in 2009 from EZ Dock to serve the Lodi Lake Boathouse. Since then, the Fourth of July fireworks show was moved from the west side of the park to the lake itself because of the new Surface Water Treatment Plant.

The past three years, the City has been fortunate to have barges transported from Cameron Park to Lodi so that the fireworks can be launched from the lake. This allows the required fireworks fallout zone to stay within the City limits. Transporting these borrowed barges, however, costs more than \$2,200 a year, and there is no guarantee they will be available each year.

The proposed purchase from EZ Dock will provide the needed 600 square feet of floating dock needed for the annual fireworks show. Additionally, it is compatible with the existing boathouse components, allowing maximum flexibility for the Parks Division to expand and reconfigure the existing docks to provide better safety and service to our boathouse customers when not needed for the fireworks display.


PRCS considered a variety of options for this purchase, but concluded that matching components are best for park users and City. Lodi Municipal Code 3.20.070 allows the dispensing of bids when the City Council determines it is the best method of purchase.

Funding is provided by the expendable trust account for Parks and Recreation. As this purchase will benefit the entire community through the fireworks display at Lodi Lake Park, as well as recreation needs at the Boathouse, staff believes this is prudent use of donation funds. Northshore EZ Dock is the manufacturer's nearest distributor.

FISCAL IMPACT: The purchase will eliminate the need to pay for transporting barges for the Fourth of July and has the potential to increase PRCS Boathouse revenue.

FUNDING AVAILABLE: PRCS account 1410.2356.02.


Jordan Ayers, Deputy City Manager


Jeff Hood
Parks, Recreation and Cultural Services Director

Attachment: Purchase quote

APPROVED: 
Konradt Bartlam, City Manager

NORTHSHORE EZ DOCK
 OTIS HENDRYX
 40221 ROAD 222
 BASS LAKE, CA 93604
 (559) 676-0064

Estimate

DATE 2/28/2013 ESTIMATE # 5 821204

BILL TO

Lodi Lake
 Steve Virrey

ITEM	DESCRIPTION	QTY	RATE	TAX	AMOUNT
206310	60" X 10' DOCK SECTION W/ 295	12	1,462.25	T	17,547.35
301150	COUPLER SET W/ COMP PRODUCT (ORDER MULTIPLES OF 50)	85	51.75	T	4,398.75
SHIPPING		1	2,195.00		2,195.00

Subtotal 24,141.11
 8.00% Tax 1,755.69

 Total 25,896.80

Payment Agreed

1. AA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	Jeff Hood	5. DATE:	3/25/13
4. DEPARTMENT/DIVISION: PRCS/Parks			

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	347	3471	6153	PRCS Donation	\$25,896.80
B. USE OF FINANCING	347	347314	7352	Special department materials	\$25,896.80

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

PRCS proposes to use the donations account to purchase dock components for Lodi Lake Park. Funding will be transferred from the PRCS donations account (1410.2356.2). The 600-square feet of floating docks will serve the annual Fourth of July fireworks show and expand the dock area at the Lodi Lake Boathouse. This project benefits the community at-large as well as regular park users.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager	Date
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Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
THE SOLE SOURCE PROCUREMENT OF DOCK
COMPONENTS FOR LODI LAKE FROM NORTHSORE EZ
DOCK AND APPROPRIATING FUNDS

=====

WHEREAS, the City purchased a floating dock system in 2009 from EZ Dock to serve the Lodi Lake Boathouse; and

WHEREAS, since that time, the Fourth of July fireworks show was moved from the west side of the park to the lake itself because of the new Surface Water Treatment Plant; and

WHEREAS, the proposed purchase from EZ Dock will provide the needed 600 square feet of floating dock needed for the annual fireworks show, and is compatible with the existing boathouse components, allowing maximum flexibility for the Parks Division to expand and reconfigure the existing docks to provide better safety and service to our boathouse customers when not needed for the fireworks display; and

WHEREAS, Parks, Recreation and Cultural Services considered a variety of options for this purchase but concluded that matching components are best for park users and the City; and

WHEREAS, funding is provided by the expendable trust account for Parks and Recreation; and

WHEREAS, this purchase will benefit the entire community through the fireworks display at Lodi Lake Park, as well as recreation needs at the Boathouse; and

WHEREAS, Lodi Municipal Code Section 3.20.070 authorizes dispensing with bids for purchase of supplies, services, or equipment when it is in the best interest of the City to do so.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the sole source procurement of dock components for Lodi Lake from Northshore EZ Dock in an amount not to exceed \$25,896.80; and

BE IT FURTHER RESOLVED, that the City Council hereby appropriates funds in the amount of \$25,896.80 for this project.

Dated: April 3, 2013

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I hereby certify that Resolution No. 2013-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Purchase of Kubota Mower from Dolk Tractor Company of Rio Vista (\$28,720)

MEETING DATE: April 3, 2013

PREPARED BY: Parks, Recreation and Cultural Services Director

RECOMMENDED ACTION: Adopt resolution approving purchase of Kubota mower from Dolk Tractor Company of Rio Vista in the amount of \$28,720.

BACKGROUND INFORMATION: Additional acreage has been added to the Parks Division's maintenance responsibilities with the development of DeBenedetti and Roget parks. The Division also is preparing to take over mowing and some other grounds keeping duties at Hutchins Street Square.

As a result, the Parks Division does not have the equipment needed to mow all parks every week.

Most of the large lawn areas at Hutchins Street Square are mowed by Hutchins Street Square's part-time maintenance workers with shoddy, worn-out equipment that is in constant need of repairs. Rather than buy a mower specifically for its Hutchins Street Square Division, it is in the best interest of the Parks, Recreation and Cultural Services Department to consolidate this function within the Parks Division, which also has the need for additional equipment to maintain the more than 16 acres of lawn added to the parks inventory in the last year.

The mower proposed is suited for various types of grass, including the Bermuda that was planted at DeBenedetti Park. Unlike the Parks Division's existing mowers, the Kubota mower equipped with a Tri-Max FlailDek can be quickly adjusted to mow turf at a height of 1 inch in a 5-foot swath.

This mower will increase the size of the PRCS equipment fleet. The mowers previously used at Hutchins Street Square were not included in the Department's official equipment inventory.

After researching various options for new mowing equipment, which included speaking to various manufacturers' representatives, the Parks Division concluded that a Kubota F3860 4WD mower with a 36-horsepower, four-cylinder diesel engine equipped with a Tri-Max FlailDek FX 155 (60-inch) mow head represented the best solution for the additional needs.

Only one vendor, Dolk Tractor Company, was able to provide a quote with the specifications requested. Buying a complete unit from a single vendor provides the Department with the assurance that the mower and mow head operate correctly and, if they don't, there is a single vendor who can provide needed service. The Kubota unit will cost \$18,500 and the Tri-Max portion \$8,100 for a total of \$28,720 after sales tax.

FISCAL IMPACT: The purchase will be offset by reduced spending for park maintenance in this fiscal year, reduced spending in 347115 (Hutchins Street Square maintenance), but will result in a need to set aside funds in future years to replace this equipment.

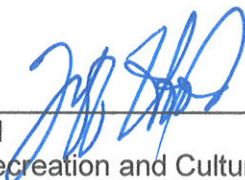
APPROVED:


Konradt Bartlam, City Manager

FUNDING AVAILABLE: PRCS accounts 347312, 347313, 347315 and 347316.



Jordan Ayers, Deputy City Manager



Jeff Hood
Parks, Recreation and Cultural Services Director

JH:tl

cc: City Attorney

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE PURCHASE OF KUBOTA
MOWER FROM DOLK TRACTOR COMPANY OF
RIO VISTA

=====

WHEREAS, additional acreage has been added to the Parks Division's maintenance responsibilities with the development of DeBenedetti and Roget parks; and

WHEREAS, the Park's Division is also preparing to take over mowing and some additional groundskeeping duties at Hutchins Street Square, and as a result the Parks Division does not have the equipment needed to mow all parks every week; and

WHEREAS, most of the large lawn areas at Hutchins Street Square are mowed by Hutchins Street Square's part-time maintenance workers with inferior equipment that is in constant need of repair; and

WHEREAS, rather than buy a mower specifically for its Hutchins Street Square Division, it is in the best interest of the Parks, Recreation and Cultural Services Department to consolidate this function within the Parks Division, which also has the need for additional equipment to maintain the more than 16 acres of lawn added to the parks inventory in the last year.

WHEREAS, after researching various options for new mowing equipment, the Parks Division concluded that a Kubota F3860 4WD mower represented the best solution for the additional needs; and.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of a Kubota F3860 4WD Mower with a 36-HP, four-cylinder diesel engine equipped with a Tri-Max FlailDek FX 155 (60-inch) mow head from Dolk Tractor Company of Rio Vista , in an amount not to exceed \$28,720.

Dated: April 3, 2013

=====

I hereby certify that Resolution No. 2013-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Awarding Contract for Hutchins Street Square Kirst Hall Heating, Ventilation and Air Conditioning Replacement Project to Division 5-15, of Gold River (\$72,795) and Appropriating Funds (\$80,000)

MEETING DATE: April 3, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution awarding contract for Hutchins Street Square Kirst Hall Heating, Ventilation and Air Conditioning Replacement Project to Division 5-15, of Gold River, in the amount of \$72,795, and appropriating funds in the amount of \$80,000.

BACKGROUND INFORMATION: This project consists of replacing three rooftop heating, ventilation and air conditioning (HVAC) units serving Kirst Hall at Hutchins Street Square. Two are 25-ton units that serve Kirst Hall and one is a three-ton unit that serves the Kirst Hall kitchen and bathroom areas. All units are over 20 years old and are failing.

Plans and specifications for this project were approved on February 20, 2013. The City received the following 10 bids for this project on March 14, 2013.

Bidder	Location	Bid
Engineer's Estimate		\$ 75,000
Division 5-15	Gold River	\$ 72,795*
CenCal Mechanical	Modesto	\$ 78,650
Comfort Air, Inc.	Stockton	\$ 79,050
Champion Industrial Contractors	Modesto	\$ 82,824
ACCO Engineered Systems	Sacramento	\$ 84,426
Siemens	West Sacramento	\$ 84,561
Modern Air Mechanical	Merced	\$ 89,620*
Johnson Controls	Roseville	\$ 91,196
Hometown Construction	Rio Linda	\$ 96,460
J. H. Simpson Company	Stockton	\$ 100,277*


* Corrected Total

FISCAL IMPACT: The project will decrease maintenance and operating costs.

FUNDING AVAILABLE: Public Benefits Fund (164605) will provide the necessary funding.
Requested Appropriation: General Fund Capital Outlay (1211786) \$80,000


Jordan Ayers

Deputy City Manager/Internal Services Director


F. Wally Sandelin

Public Works Director

Prepared by Gary Wiman, Construction Project Manager
FWS/GW/pmf
cc: Parks, Recreation and Cultural Services Director

APPROVED: 

Konrad Bartlam, City Manager

**HUTCHINS STREET SQUARE KIRST HALL
HVAC REPLACEMENT PROJECT
125 South Hutchins Street**

CONTRACT

CITY OF LODI, CALIFORNIA

THIS CONTRACT made by and between the CITY OF LODI, State of California, herein referred to as the "City," and DIVISION 5-15, herein referred to as the "Contractor."

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	The July 1992 Edition,
Information to Bidders	Standard Specifications,
General Provisions	State of California,
Special Provisions	Business and Transportation Agency,
Bid Proposal	Department of Transportation
Contract	
Contract Bonds	
Plans	

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

ARTICLE I - That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City and under the condition expressed in the two bonds bearing even date with these presents and hereunto annexed, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete in a good workmanlike and substantial manner and to the satisfaction of the City the proposed improvements as shown and described in the Contract Documents which are hereby made a part of the Contract.

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Section 5.600, "Measurement, Acceptance and Payment," of the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time, and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Perform the work necessary to remove and replace three (3) rooftop HVAC units, all as shown on the plans and specifications for "Hutchins Street Square Kirst Hall HVAC Replacement Project".

CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
1.	Remove and Dispose of Existing Units	LS	1	\$ 2,931.00	\$ 2,931.00
2.	Provide and Install 3 Ton Unit	EA	1	\$ 12,618.00	\$12,618.00
3.	Provide and Install 25 Ton Unit	EA	2	\$ 27,255.00	\$54,510.00
4.	All other items Necessary For a complete and operational System	LS	1	\$ 2,736.00	\$ 2,736.00
TOTAL					\$72,795.00

ARTICLE V - By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE VI - It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the Bid Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE VII - The City is to furnish the necessary rights-of-way and easements and to establish lines and grades for the work as specified under the Special Provisions. All labor or materials not mentioned specifically as being done by the City will be supplied by the Contractor to accomplish the work as outlined in the specifications.

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the City Manager has executed the contract and to diligently prosecute to completion within **45 CALENDAR DAYS**.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN SECTION 6 OF THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date written below.

CONTRACTOR:

CITY OF LODI

By: _____
Konradt Bartlam
City Manager

By: _____

Date: _____

Attest

Title

City Clerk

(CORPORATE SEAL)

Approved As To Form

D. Stephen Schwabauer
City Attorney

1. AA# _____
2. JV# _____

**CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST**

TO: Internal Services Dept. - Budget Division
3. FROM: Rebecca Areida-Yadav 5. DATE: 03/18/2013
4. DEPARTMENT/DIVISION: Public Works

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	1211		4210	Operating Transfers In	\$ 80,000.00
	164	164605	8098	Public Benefits Program	\$ 80,000.00
B. USE OF FINANCING	1211	1211786	1825.2250		\$ 80,000.00
	164		4220	Operating Transfers Out	\$ 80,000.00

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

Contract with Division 5-15 for Kirst Hall HVAC replacement funded by Public Benefits Program.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: Awally Sandu

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager _____ Date _____

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING AND
AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT FOR
HUTCHINS STREET SQUARE KIRST HALL HEATING, VENTILATION AND
AIR CONDITIONING REPLACEMENT PROJECT AND FURTHER
APPROPRIATING FUNDS

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 14, 2013, at 11:00 a.m., for the Hutchins Street Square Kirst Hall Heating, Ventilation and Air Conditioning Replacement Project, described in the specifications therefore approved by the City Council on February 20, 2013; and

WHEREAS, said bids have been checked and tabulated and a report thereof filed with the City Manager as follows:

Bidder	Bid	
Division 5-15		\$ 72,795*
CenCal Mechanical		\$ 78,650
Comfort Air, Inc.		\$ 79,050
Champion Industrial Contractors		\$ 82,824
ACCO Engineered Systems		\$ 84,426
Siemens		\$ 84,561
Modern Air Mechanical		\$ 89,620*
Johnson Controls		\$ 91,196
Hometown Construction		\$ 96,460
J. H. Simpson Company		\$ 100,277*
* Corrected Total		

WHEREAS, staff recommends awarding the contract for the Hutchins Street Square Kirst Hall Heating, Ventilation and Air Conditioning Replacement Project to the low bidder, Division 5-15, of Gold River, California, in the amount of \$72,795.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the Hutchins Street Square Kirst Hall Heating, Ventilation and Air Conditioning Replacement Project to the low bidder, Division 5-15, of Gold River, California, in the amount of \$72,795; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the contract; and

BE IT FURTHER RESOLVED that funds in the amount of \$80,000 be appropriated for the project from the General Fund Capital Outlay account.

Dated: April 3, 2013

=====

I hereby certify that Resolution No. 2013-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for Extruded Thermoplastic Lane Line Marking for Various City Streets

MEETING DATE: April 3, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept improvements under contract for extruded thermoplastic lane line marking for various City streets.

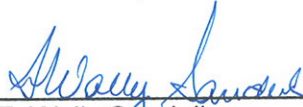
BACKGROUND INFORMATION: The contract was awarded to Chrisp Company, of Fremont, in the amount of \$73,185.90, on June 20, 2012. The contract has been completed in substantial conformance with the specifications approved by City Council.

This project applied extruded thermoplastic product on approximately 30 percent of all lane line marked City streets. Lane line striping for Ham Lane was removed from the contract after award. There was one change order executed for this project on November 20, 2012, which provided for traffic striping and legends for areas within the Water Meter Program Phase 2 project. The cost of this change order, \$11,584.50, was paid for by the Water Meter Program Phase 2 project. The total contract cost is \$81,705. The work for this project was completed on December 19, 2012.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

FISCAL IMPACT: The annual cost for traffic stripes will decrease by 33 percent using extruded thermoplastic lane line marking.

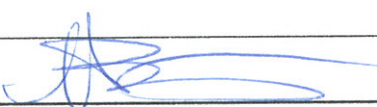
FUNDING AVAILABLE: This project was funded by Measure K (325035).



F. Wally Sandelin
Public Works Director

Prepared by Kathryn E. Garcia, Compliance Engineer
FWS/KMG/pmf
cc: Deputy Public Works Director – Utilities
Compliance Engineer

APPROVED:



Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for 2012 Utility Frame and Cover Adjustment Project, Various Locations

MEETING DATE: April 3, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept improvements under contract for 2012 Utility Frame and Cover Adjustment Project, Various Locations.

BACKGROUND INFORMATION: The contract was awarded to Teichert Construction, of Roseville, in the amount of \$183,690. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

This project consisted of adjusting water valves and manhole frames and covers to grade, performing approximately 10,100 square feet of pavement repair at various locations throughout the City and other incidental and related work, all as shown on the plans and specifications for the project.

The pavement around the utility frames and covers at these locations had deteriorated, causing uneven surfaces. Many locations also had pavement failures that need to be repaired.

The completion date was November 15, 2012. The final contract price was \$211,934.10. The difference between the contract amount and the final contract price (\$28,244.10) is due to increases in unit quantities for pavement repair and adjustments to manhole frames and covers and survey monument frames.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

FISCAL IMPACT: There will be a reduction in annual maintenance costs.


FUNDING AVAILABLE: This project was funded by Water Capital (181) and Wastewater Capital (171)



F. Wally Sandelin
Public Works Director

Prepared by Gary Wiman, Construction Project Manager
FWS/GW/pmf
cc: Deputy Public Works Director – Utilities

APPROVED:



Konrad Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for City Hall Parking Lot Reconstruction Project
MEETING DATE: April 3, 2013
PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept improvements under contract for City Hall Parking Lot Reconstruction Project.

BACKGROUND INFORMATION: The contract was awarded to A. M. Stephens Construction, of Lodi, in the amount of \$238,877.65. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

This project consisted of reconstructing the City Hall parking lot with asphalt concrete, constructing a trash enclosure, installing handicap-accessible parking stalls, and other incidental and related work, all as shown on the plans and specifications for the project. The project also included the removal of four existing Arizona ash trees in the parking lot. The trees were in poor condition, and their roots were raising the concrete curb and asphalt pavement. Three new Chinese Pistache trees were planted as their replacement.

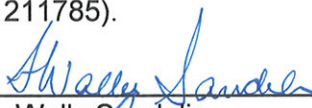
The completion date was March 5, 2013. The final contract price was \$290,740.19. The difference between the contract amount and the final contract price is due to the following:

- Change Order No. 1 included the addition of an ADA path of travel from the parking area to Elm Street, adding a sump at the Carnegie Forum basement entrance and additional landscaping at the median strip (\$18,270.30).
- Change Order No. 2 added stiffeners at the trash enclosure gates and screening of grinding materials so they could be used at other City projects (\$14,096.91).
- Change Order No. 3 is for the contractor to return to seal the parking lot asphalt concrete during hot weather (\$13,415.33).
- There was an increase in unit quantities installed for concrete curbs, ADA parking stalls and asphalt concrete (\$6,080.00).

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

FISCAL IMPACT: The project will decrease maintenance costs and implement additional elements of the City's ADA Transition Plan.

FUNDING AVAILABLE: This project was funded by Street Fund (320123) and General Fund (1211785).


 F. Wally Sandelin
 Public Works Director

Prepared by Gary Wiman, Construction Project Manager
 FWS/GW/pmf
 cc: Deputy Public Works Director – Utilities

APPROVED: 
 Konrad Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Establishing Written Protest Procedures for Federally-Funded Transit Procurements

MEETING DATE: April 3, 2013

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution establishing written protest procedures for federally-funded transit procurements.

BACKGROUND INFORMATION: In accordance with the Federal Transit Administration (FTA) and Code of Federal Regulations Title 49, Transportation, all grantees of federal transit funds shall have written protest procedures to handle and resolve disputes relating to their procurements. In the past, various transit projects have included protest procedures in the transit project's request of proposals or invitation for bids. The attached procurement protest procedures will formalize the current protest procedures. These procedures will apply to all future FTA projects.

FISCAL IMPACT: The procurement protest procedures are a FTA requirement to use federal funds for transit procurements.

FUNDING AVAILABLE: Not required.

A handwritten signature in blue ink, reading "F. Wally Sandelin", written over a horizontal line.

F. Wally Sandelin
Public Works Director

Prepared by Paula J. Fernandez, Transportation Manager/Senior Traffic Engineer

FWS/PJF/pmf

Attachment

APPROVED:

A handwritten signature in blue ink, reading "Konradt Bartlam", written over a horizontal line.

Konradt Bartlam, City Manager

CITY OF LODI

PROCUREMENT PROTEST PROCEDURES

Under certain circumstances, an interested party to a procurement may protest to the City of Lodi the award of a contract, which may or may not involve the direct application of funds from the Federal Transit Administration (FTA).

All solicitation documents shall include Procurement Protest Procedures, either explicitly or by reference. These procedures are intended to ensure that valid complaints are properly handled and responded to.

The term protest is utilized to describe the controversies that arise during the contract formation process as an objection to a decision to award a specific proposal or bid. The protests are challenges to actual or proposed actions of the contracting officers on specific procurements. These objections are brought by offerors, prospective offerors, or other interested parties who contend that they have been improperly treated in the procurement process. All protests must be submitted in writing.

GENERAL CONDITIONS

The City of Lodi's review of any protest will be limited to violations of federal, state or local laws or regulations; violations of the City of Lodi's purchasing procedures; violations of the City of Lodi's protest procedures; or, failure to review a complaint or protest.

Protests arising from solicitation procedures or forms must be received by the City of Lodi within a reasonable time in advance of scheduled bid opening or proposal submission but no later than fifteen (15) calendar days prior to bid opening or proposal submission due date. All other protests including a staff determination of the apparent low bidder must be received by the City of Lodi within five (5) working days of the action on which the protest is based.

The initial protest filed with the City of Lodi shall be in writing and shall:

1. Include the name, address and telephone number of the protester; and the name of a contact person.
2. Identify the number, date and description of the solicitation.
3. Contain a statement of the grounds for protest and any supporting documentation. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of an initial protest will be considered only if filed within the time limits specified.
4. Indicate the ruling or relief desired from the City of Lodi.

Protests filed after the above timelines will be rejected as untimely. However, a protest may be considered, even if the initial filing is late, under the following circumstances:

1. Good cause based on compelling reasons beyond the protester's control, whereby the lateness is due to the fault of the City of Lodi in the handling of his/her protest submission.
2. The City of Lodi determines the protest raised significant issues to a procurement practice or procedure.
3. A court of competent jurisdiction requests, expects or otherwise expresses interest in the City of Lodi's decision.

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, clear and legible.

Any additional information requested or required by the City of Lodi from the protester, or interested parties shall be submitted as expeditiously as possible, but in no case later than five (5) working days after the receipt of such request unless specifically excepted by the City of Lodi.

CONFIDENTIALITY

Materials submitted by a protester will not be withheld from any interested party outside of the City of Lodi or from any Government agency which may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation. If the protester considers that the protest contains proprietary materials which should be withheld, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears. However, the City is governed by the California Public Records Act, and may or not be able to maintain any document's confidentiality once it is in the City's possession. However, the City will give a bidder 5 days notice before producing documents labeled as confidential to give the bidder an opportunity to seek judicial relief.

FURNISHING OF INFORMATION ON PROTESTS

The City of Lodi shall, upon request, make available to any interested party, information bearing on the substance of the protest, including:

1. Any other documents that pertain to the protest, including correspondence with the bidders; and
2. A statement by the City of Lodi explaining its actions and the reasons for them.

A conference on the merits of the protest with members of the City of Lodi Protest Review Panel (defined below) may be held at the request of the protester. The request for a conference should be made in a timely manner so as not to interfere with the resolution of the protest and not later than twenty (20) calendar days after the initial protest was filed.

WITHHOLDING OF AWARD

When a protest has been filed before the opening of bids or proposal submission, the City of Lodi will not make an award for five (5) working days following its decision on the protest. When a protest has

been filed after the award but prior to the execution of a contract, the City of Lodi will not proceed with the execution of the contract prior to the resolution of the protest. Exceptions to the above may occur if the City of Lodi determines that:

1. The items to be procured are urgently required; or
2. Delivery or performance will be unduly delayed by failure to either make the award promptly or to continue with the procurement; or
3. Failure to make prompt award or to continue with the procurement will otherwise cause undue hardship to the City of Lodi or other local, state or federal governments.

PROTEST SUBMISSION

Protest submissions shall be directed to:

City of Lodi Administration Department
Attn: Ms. Randi Johl, City Clerk
221 W. Pine Street (P. O. Box 3006)
Lodi, CA 95240 (95241-1910)

In all cases, the envelope shall be marked: "Attention: Protest Material" and include the pertinent Invitation for Bid or Request for Proposal Project title.

PROTEST REVIEW-LEVEL ONE

Upon receipt of a protest, the City Manager will appoint an ad hoc City of Lodi Protest Review Panel to review all relevant materials associated with the protest. The panel will be comprised of three (3) representatives of the City of Lodi appointed by the City Manager; Including the City Department Head, Transportation Manager, and one other City staff member knowledgeable in the specific project. The Panel shall determine the validity of the protest and what actions will be taken.

The panel will be directed to prepare a report within fifteen (15) calendar days. The Panel will notify the protester and any interested parties of their findings and actions and of the procedures for requesting reconsideration. The report shall include the following as relevant:

1. Copies of all relevant documents;
2. A copy of the Invitation for Bid or Request for Proposal, including pertinent provisions of the specifications.

PROTEST REVIEW-LEVEL TWO

Reconsideration of a decision by the City of Lodi may be requested by the protester or any interested party. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law or fact made.

The request for reconsideration of the City of Lodi Protest Review Panel's decision shall be filed no later than ten (10) working days after the Panel issues its written report, and shall be filed with the City Attorney.

Upon receipt of the request for reconsideration, the City Manager shall schedule an informal administrative hearing with the aggrieved party and the City of Lodi Protest Review Panel. The hearing shall be held not later than fifteen (15) working days after the receipt of the request for reconsideration. The City Attorney shall issue, in writing, the City of Lodi's final determination of the reconsidered protest within five (5) working days of the administrative hearing. The appellant process ends with the City Attorney's decision; however, the aggrieved party may ask the City Council to review the City Attorney's decision. Protests must be presented at the City Council public meeting at the time of procurement award. The aggrieved party shall have an opportunity to appear and be heard before the City Council at the public meeting. At the City Council public meeting, the City Council will render a decision. The aggrieved party has those remedies afforded by the state courts, as well.

The City of Lodi may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction.

The City of Lodi shall not be responsible for any protests not filed in a timely manner.

FEDERAL TRANSIT ADMINISTRATION (FTA) PROTEST PROCEDURES

A party wishing to file a protest with FTA should consult FTA Circular 4220.1F for details on FTA's bid protest procedures. Circular 4220.1F reinforces FTA's policy of limiting involvement in grantees' activities. FTA will only review protests regarding the alleged failure of the grantee to have written protest procedures or alleged failure to follow such procedures. Alleged violations of a specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate local administrative authorities.

Protest must be filed with FTA (with a concurrent copy to the City of Lodi) within five (5) working days after the City of Lodi renders a final decision or five (5) working days after the aggrieved party knows or has reason to know that the City of Lodi failed to render a final decision. After five (5) working days, the City of Lodi will confirm with FTA that FTA has not received a protest on the procurement in question.

In accordance with the provisions of FTA Circular 4220.1F, the Transportation Manager, or designee, will be responsible for providing information regarding protests of federally funded procurements to the FTA Region IX Office.

The City of Lodi shall not be responsible for any protests not filed in a timely manner with FTA.

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING WRITTEN PROTEST PROCEDURES
FOR FEDERALLY-FUNDED TRANSIT PROCUREMENTS

=====

WHEREAS, in accordance with the Federal Transit Administration (FTA) and Code of Federal Regulations Title 49, Transportation, all grantees of federal transit funds shall have written protest procedures to handle and resolve disputes relating to their procurements.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby establish written protest procedures for federally-funded transit procurements, as shown on Exhibit A attached.

Dated: April 3, 2013

=====

I hereby certify that Resolution No. 2013-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-_____

CITY OF LODI

PROCUREMENT PROTEST PROCEDURES

Under certain circumstances, an interested party to a procurement may protest to the City of Lodi the award of a contract, which may or may not involve the direct application of funds from the Federal Transit Administration (FTA).

All solicitation documents shall include Procurement Protest Procedures, either explicitly or by reference. These procedures are intended to ensure that valid complaints are properly handled and responded to.

The term protest is utilized to describe the controversies that arise during the contract formation process as an objection to a decision to award a specific proposal or bid. The protests are challenges to actual or proposed actions of the contracting officers on specific procurements. These objections are brought by offerors, prospective offerors, or other interested parties who contend that they have been improperly treated in the procurement process. All protests must be submitted in writing.

GENERAL CONDITIONS

The City of Lodi's review of any protest will be limited to violations of federal, state or local laws or regulations; violations of the City of Lodi's purchasing procedures; violations of the City of Lodi's protest procedures; or, failure to review a complaint or protest.

Protests arising from solicitation procedures or forms must be received by the City of Lodi within a reasonable time in advance of scheduled bid opening or proposal submission but no later than fifteen (15) calendar days prior to bid opening or proposal submission due date. All other protests including a staff determination of the apparent low bidder must be received by the City of Lodi within five (5) working days of the action on which the protest is based.

The initial protest filed with the City of Lodi shall be in writing and shall:

1. Include the name, address and telephone number of the protester; and the name of a contact person.
2. Identify the number, date and description of the solicitation.
3. Contain a statement of the grounds for protest and any supporting documentation. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of an initial protest will be considered only if filed within the time limits specified.
4. Indicate the ruling or relief desired from the City of Lodi.

Protests filed after the above timelines will be rejected as untimely. However, a protest may be considered, even if the initial filing is late, under the following circumstances:

1. Good cause based on compelling reasons beyond the protester's control, whereby the lateness is due to the fault of the City of Lodi in the handling of his/her protest submission.
2. The City of Lodi determines the protest raised significant issues to a procurement practice or procedure.
3. A court of competent jurisdiction requests, expects or otherwise expresses interest in the City of Lodi's decision.

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, clear and legible.

Any additional information requested or required by the City of Lodi from the protester, or interested parties shall be submitted as expeditiously as possible, but in no case later than five (5) working days after the receipt of such request unless specifically excepted by the City of Lodi.

CONFIDENTIALITY

Materials submitted by a protester will not be withheld from any interested party outside of the City of Lodi or from any Government agency which may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation. If the protester considers that the protest contains proprietary materials which should be withheld, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears. However, the City is governed by the California Public Records Act, and may or not be able to maintain any document's confidentiality once it is in the City's possession. However, the City will give a bidder 5 days notice before producing documents labeled as confidential to give the bidder an opportunity to seek judicial relief.

FURNISHING OF INFORMATION ON PROTESTS

The City of Lodi shall, upon request, make available to any interested party, information bearing on the substance of the protest, including:

1. Any other documents that pertain to the protest, including correspondence with the bidders; and
2. A statement by the City of Lodi explaining its actions and the reasons for them.

A conference on the merits of the protest with members of the City of Lodi Protest Review Panel (defined below) may be held at the request of the protester. The request for a conference should be made in a timely manner so as not to interfere with the resolution of the protest and not later than twenty (20) calendar days after the initial protest was filed.

WITHHOLDING OF AWARD

When a protest has been filed before the opening of bids or proposal submission, the City of Lodi will not make an award for five (5) working days following its decision on the protest. When a protest has

been filed after the award but prior to the execution of a contract, the City of Lodi will not proceed with the execution of the contract prior to the resolution of the protest. Exceptions to the above may occur if the City of Lodi determines that:

1. The items to be procured are urgently required; or
2. Delivery or performance will be unduly delayed by failure to either make the award promptly or to continue with the procurement; or
3. Failure to make prompt award or to continue with the procurement will otherwise cause undue hardship to the City of Lodi or other local, state or federal governments.

PROTEST SUBMISSION

Protest submissions shall be directed to:

City of Lodi Administration Department
Attn: Ms. Randi Johl, City Clerk
221 W. Pine Street (P. O. Box 3006)
Lodi, CA 95240 (95241-1910)

In all cases, the envelope shall be marked: "Attention: Protest Material" and include the pertinent Invitation for Bid or Request for Proposal Project title.

PROTEST REVIEW-LEVEL ONE

Upon receipt of a protest, the City Manager will appoint an ad hoc City of Lodi Protest Review Panel to review all relevant materials associated with the protest. The panel will be comprised of three (3) representatives of the City of Lodi appointed by the City Manager; Including the City Department Head, Transportation Manager, and one other City staff member knowledgeable in the specific project. The Panel shall determine the validity of the protest and what actions will be taken.

The panel will be directed to prepare a report within fifteen (15) calendar days. The Panel will notify the protester and any interested parties of their findings and actions and of the procedures for requesting reconsideration. The report shall include the following as relevant:

1. Copies of all relevant documents;
2. A copy of the Invitation for Bid or Request for Proposal, including pertinent provisions of the specifications.

PROTEST REVIEW-LEVEL TWO

Reconsideration of a decision by the City of Lodi may be requested by the protester or any interested party. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law or fact made.

The request for reconsideration of the City of Lodi Protest Review Panel's decision shall be filed no later than ten (10) working days after the Panel issues its written report, and shall be filed with the City Attorney.

Upon receipt of the request for reconsideration, the City Manger shall schedule an informal administrative hearing with the aggrieved party and the City of Lodi Protest Review Panel. The hearing shall be held not later than fifteen (15) working days after the receipt of the request for reconsideration. The City Attorney shall issue, in writing, the City of Lodi's final determination of the reconsidered protest within five (5) working days of the administrative hearing. The appellant process ends with the City Attorney's decision; however, the aggrieved party may ask the City Council to review the City Attorney's decision. Protests must be presented at the City Council public meeting at the time of procurement award. The aggrieved party shall have an opportunity to appear and be heard before the City Council at the public meeting. At the City Council public meeting, the City Council will render a decision. The aggrieved party has those remedies afforded by the state courts, as well.

The City of Lodi may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction.

The City of Lodi shall not be responsible for any protests not filed in a timely manner.

FEDERAL TRANSIT ADMINISTRATION (FTA) PROTEST PROCEDURES

A party wishing to file a protest with FTA should consult FTA Circular 4220.1F for details on FTA's bid protest procedures. Circular 4220.1F reinforces FTA's policy of limiting involvement in grantees' activities. FTA will only review protests regarding the alleged failure of the grantee to have written protest procedures or alleged failure to follow such procedures. Alleged violations of a specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate local administrative authorities.

Protest must be filed with FTA (with a concurrent copy to the City of Lodi) within five (5) working days after the City of Lodi renders a final decision or five (5) working days after the aggrieved party knows or has reason to know that the City of Lodi failed to render a final decision. After five (5) working days, the City of Lodi will confirm with FTA that FTA has not received a protest on the procurement in question.

In accordance with the provisions of FTA Circular 4220.1F, the Transportation Manager, or designee, will be responsible for providing information regarding protests of federally funded procurements to the FTA Region IX Office.

The City of Lodi shall not be responsible for any protests not filed in a timely manner with FTA.

C-11



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving the Agreement Between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for the Summer Swim League Program

MEETING DATE: April 3, 2013

PREPARED BY: Parks, Recreation and Cultural Services Director

RECOMMENDED ACTION: Adopt resolution approving the agreement between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for the Summer Swim League Program.

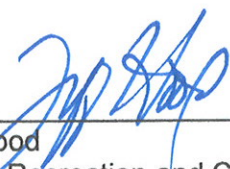
BACKGROUND INFORMATION: The Parks and Recreation Department currently provides a summer swim league program to more than 400 children. The program continues to grow every year. This City has had a contract for use of Twin Arbors Athletic Club ("TAAC") pool since 2003.

As a way of accommodating facility needs, staff has partnered with TAAC to gain access to its pools. In exchange, TAAC is allowed to organize its own team and participate in the City-sponsored Summer Swim League. The benefits of the public/private partnership are twofold: (1) It provides the City use of aquatics facilities that the City does not currently have; and, (2) It creates another program offering for TAAC which has resulted in the expansion of the Summer Swim League.

Staff recommends approval of the agreement, which will enable the swimming pools at TAAC to be used for swim meets and allow for a team composed of TAAC members to participate in the League. Meets will be held on select Friday nights from June through July 2013. The term of the agreement is May 28, 2013 to July 19, 2013.

FISCAL IMPACT: No funds will be exchanged. This is an in-kind trade. The use of four pools (TAAC, Tokay High School, Lodi High School, and Blakely Pool) will enhance scheduling efficiency, allow for Friday night versus Saturday meets, and thus save operations and maintenance costs at Blakely Pool.

FUNDING: Not Applicable.



Jeff Hood
Parks, Recreation and Cultural Services Director

JH:MR:tl

Attachments
cc: City Attorney

APPROVED: 

Konradt Bartlam, City Manager

MEMORANDUM OF UNDERSTANDING (Summer Swim League)

THIS Memorandum of Understanding ("Agreement") is entered into as of this ____ day of _____, 2013, by Spare Time Incorporated, d.b.a. Twin Arbors Athletic Club, ("TAAC") and the CITY OF LODI, a municipal corporation ("City").

Background

A. City's Parks, Recreational and Cultural Services Department operates a six week summer swim league at the City owned Enze Pool, Lodi High School Pool and Tokay High School Pool. Currently, the City has four teams, each comprised of approximately 100 participants, TAAC also operates swimming programs at its privately owned pool facilities at 2040 W. Cochran Rd, Lodi, and 1900 S Hutchins St, Lodi, CA.

B. TAAC again desires to organize a team to participate in the summer swim league. City is willing to permit TAAC to do so during the City's 2013 summer swim league. However, in order to accommodate the fourth team, City requires the use of one or both of TAAC's pool facilities.

C. Accordingly, the parties enter into this Agreement on the terms and conditions set forth below.

Agreement

In consideration of their mutual covenants, the Parties agree as follows:

1. Participation. TAAC and City agree that TAAC will establish an additional team named the "Dolphins" comprised of the members of its club to participate in the City's summer swim league.

2. Administration. Generally, the Dolphins team and its members will be treated identically to the City teams, and the Dolphins will practice at TAAC's facilities. Dolphins team members will register with and pay the City's Parks and Recreation program fees. City will pay the Dolphins coach the same stipend paid to the City coaches. City shall have the right to oversee and supervise the Dolphin's coach and program, including all appropriate background checks of Dolphins' staff (whether paid or volunteer) and monitoring practices and swim meets to ensure compliance with all applicable laws, regulations, and City standards. TAAC shall cooperate with City's efforts to perform background checks and monitoring.

3. Fees/Recruiting Prohibited. No fees, other than those referred to in paragraph 2 of this Agreement and TAAC's standard membership fee shall be charged to any Dolphin team member. Members must be an active member of TAAC as of May 1st of the current year. However, TAAC like other teams may accept donations and have fundraisers to solicit sponsorships. TAAC shall not engage in any efforts to recruit memberships during swim meets. TAAC shall not recruit members of City teams and TAAC members who wish to retain their affiliation with a City team must not be pressured to join the TAAC team. However, TAAC will be permitted to inform its members that it is establishing a team to compete in the City's 2013 summer swim league, and that TAAC members may join TAAC's team by signing up through the City's Parks and Recreation Department subject to being an active member of TAAC as of May 1st of the current year.

4. Use of Facilities. During the term of this Agreement, TAAC agrees to allow the use of its facilities, including but not limited to the showers, dressing areas, bathrooms, and spectator areas for Dolphins practice and for swim meets between any teams in the summer swim league Monday through Thursday. No fees shall be charged to (1) the City for use TAAC's facilities; or (2) any child or spectator for any purpose, including but not limited to entry fees, or shower fees, during the swim meets. TAAC shall have the right to designate which of its Lodi pool facilities will be used for practices on whatever notice it deems appropriate and shall also have the right to designate which of its Lodi pool facilities will be used for swim meets on at least 30 days written notice to City, as long as practices are consistent with above times. The meets held at TAAC pools will involve the Dolphins and a City team. At no time will two City teams use TAAC pool for swim meets. Swim meets may be held on the following Friday evenings from 4:30 p.m. to 8:30 p.m. at the TAAC pool: June 14, 21, 28 and July 12, 2013.

5. Term. The term of this Agreement shall be from May 28, 2013 to July 19, 2013, unless otherwise terminated as provided herein.

6. Maintenance. TAAC shall, at its own expense, maintain its Lodi premises and pool facilities and any buildings and or equipment on or attached to the premises in a safe condition, in good repair and in a manner suitable to City. City shall be entitled to inspect TAAC's pool facilities upon demand to ensure compliance with this paragraph.

7. Utilities. TAAC shall provide utility service to the premises at its sole cost and expense.

8. Attorney Fees. In any action between the parties arising out of or related to this contract, the prevailing party shall be entitled to all expenses incurred therefor, including reasonable attorney fees.

9. Optional Termination. Either party may terminate this Agreement in writing upon at least 48 hours prior written notice. In the event of an early termination, the City, in its sole discretion, will determine which one of the following options to give to the entire Dolphins team:

- a. Join another of the teams in the City's 2013 summer swim league;
- b. Continue on the Dolphins team for the remainder of the season with a coach to be supplied by the City without the use of the TAAC facilities; or
- c. Terminate their participation in the league and receive a pro-rated refund of the fees paid to the City's Parks, Recreational and Cultural Services Department.

10. Indemnity and Insurance.

a. Indemnification by City: Except to the extent caused by the negligence or intentional misconduct of TAAC or of any agent, servant or employee of TAAC, City ("Indemnitor") shall, at its sole cost and expense, indemnify and hold harmless TAAC and all associated, affiliated, allied and subsidiary entities of TAAC, now existing or hereinafter created, and their respective officers, boards, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

- i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of City, its personnel, employees, agents, contractors or subcontractors on the Premises, resulting in personal injury, bodily injury, sickness, disease or death to any person or

damage to, loss of or destruction of tangible or intangible property, or any other right of any person, firm or corporation, to the extent arising out of or resulting from the operation and/or maintenance of the summer swim league or City's failure to comply with any applicable federal, state or local statute, ordinance or regulation.

b. Indemnification by TAAC: Except to the extent caused by the negligence or intentional misconduct of City or of any agent, servant or employee of City, TAAC ("Indemnitor") shall, at its sole cost and expense, indemnify and hold harmless City and all associated, affiliated, allied and subsidiary entities of City, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of TAAC, its personnel, employees, agents, contractors or subcontractors on the TAAC premises, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, or any other right of any person, firm or corporation.

c. Defense of Indemnitees: In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Indemnitor shall, upon reasonable prior written notice from any of the Indemnitees, at Indemnitor's sole cost and expense, resist and defend the same with legal counsel mutually selected by the parties; provided however, that the parties must not admit liability in any such matter without written consent, which consent must not be unreasonably withheld, conditioned or delayed, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without prior written consent. The indemnifying party's duty to defend shall begin upon receipt of a written notice identifying with specificity the allegations that give rise to this duty to defend and shall be co-extensive with the indemnifying party's indemnification obligation.

d. Notice, Cooperation and Expenses: Each party must give the other prompt written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent either party from cooperating with the other and participating in the defense of any litigation by its own counsel. However, Indemnitor shall pay all reasonable expenses incurred by Indemnitees in response to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Indemnitees' attorney, and the actual reasonable expenses of Indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnitees in connection with such suits, actions or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Indemnitees by Indemnitor.

If Indemnitor requests Indemnitee to assist it in such defense, then Indemnitor shall pay all reasonable expenses incurred by Indemnitee in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as attorney fees and shall also include the reasonable costs of any services rendered by Indemnitee's attorney, and the actual reasonable expenses of

Indemnatee's agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnatee in connection with such suits, actions or proceedings.

e. Insurance: During the term of the Agreement, both parties must maintain, or cause to be maintained, in full force and effect and at their sole cost and expense, the types and limits of insurance as set forth in Exhibit A, attached hereto and made a part hereof.

f. Evidence of Insurance: TAAC shall file certificates of insurance for each insurance policy required to be obtained in compliance with this paragraph, along with written evidence of payment of required premiums with the City annually during the term of the Agreement. City shall immediately advise TAAC in writing of any claim or litigation that may result in liability to TAAC. TAAC shall immediately advise City in writing of any claim or litigation that may result in liability to City.

g. Self-Insurance: The City's insurance requirements set forth herein may be satisfied by a self insurance program that complies with all laws and regulations governing self insurance.

13. Notices. Except as otherwise provided for in this Agreement to the contrary, all notices, demands and other communications required or contemplated to be given under this Agreement shall be in writing and shall be delivered either by (i) postage prepaid, Returned Receipt Requested, Registered or Certified Mail, (ii) local or air courier messenger service, (iii) personal delivery, or (iv) facsimile addressed to the party or parties for whom intended at the address shown below or such other address as the intended recipient previously shall have designated by written notice from time to time (provided, however, notice of a change of address or facsimile number shall be effective only upon receipt):

To City:	Parks, Recreation & Cultural Services P. O. Box 3006 221 W. Pine Street Lodi, CA 94240 Fax: (209) 333-0162 Attn: Jeff Hood, Director
To TAAC:	Twin Arbors Athletic Club 1900 S Hutchins Street Lodi, CA 95242 Phone: (209) 334-4897 Attn: Dennis Kauffman, General Manager

14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

15. Non-Waiver. Failure of either party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its rights here under shall not waive such rights, but either party shall have the right to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity.

16. Miscellaneous.

a. TAAC and City represent that each, respectively, has full right, power, and authority to execute this Agreement.

b. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by both parties.

c. This Agreement shall be construed in accordance with the laws of the State of California.

This Agreement was executed as of the date first set forth above and effective as of the date set forth in introduction above.

City of Lodi, a municipal corporation

Spare Time Incorporated, dba Twin
Arbors Athletic Club

By _____
Konradt Bartlam
City Manager

By _____
Dennis Kaufman
General Manager

Attest:

Randi Johl, City Clerk

Dated: _____

Approved as to Form:
D. Stephen Schwabauer, City Attorney
Janice D. Magdich, Deputy City Attorney

_____ 

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING AGREEMENT BETWEEN THE CITY
OF LODI AND SPARE TIME, INC., dba TWIN
ARBORS ATHLETIC CLUB, FOR USE OF POOLS
AT TWIN ARBORS ATHLETIC CLUB FACILITIES

=====

WHEREAS, the Parks, Recreation and Cultural Services Department currently provides a summer swim league program to more than 400 children; and

WHEREAS, this program continues to grow, with no additional facilities available to expand the program; and

WHEREAS, over the years, City staff has partnered with Twin Arbors Athletic Club to gain access to its pools in order to expand the program; and

WHEREAS, the benefits of the public/private partnership have been twofold: 1) it has provided the City use of aquatics facilities that it does not currently have; and 2) it has created another program offering for Twin Arbors Athletic Club, which has resulted in the expansion of the Summer Swim League; and

WHEREAS, staff therefore recommends that the City Council approve the agreement, which would allow the swimming pools at Twin Arbors Athletic Club to be used for swim meets, practices and allow a team comprised of Twin Arbors members to participate in the league.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the agreement between the City of Lodi and Spare Time, Inc., dba Twin Arbors Athletic Club, for use of pools at Twin Arbors Athletic Club facilities for the period May 28, 2013 to July 19, 2012.

Dated: April 3, 2013

=====

I hereby certify that Resolution No. 2013-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-_____

C-12



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Appropriating \$1,750 from the Art in Public Places Fund for Heritage School Watershed Mosaic Project

MEETING DATE: April 3, 2013

PREPARED BY: Parks, Recreation and Cultural Services Director

RECOMMENDED ACTION: Adopt a resolution appropriating \$1,750 from the Art in Public Places Fund for Heritage School Watershed Mosaic Project.

BACKGROUND INFORMATION: The Art Advisory Board seeks to use Art in Public Places funds to support a mosaic mural project at Heritage School. This mosaic will be produced by fifth-grade "Earth Keepers Club" under the direction of the Public Works Department's Watershed Coordinator.

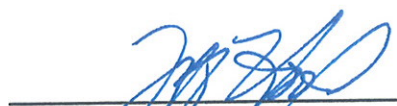
The students were able to spend the 2012-13 school year on several Mokelumne River Watershed study field trips. Their fifth grade science curriculum highlighted the study of watersheds, waste water treatment and water cycle in general. This mosaic project would be the "Earth Keeper's" legacy project.

Central to Lodi's eastside is Heritage School. It has become a hub for many activities beyond the school day. A health clinic, English language classes and an after school childcare program operate on the campus after hours. The mural will be placed on a wall facing the street so all who pass by can enjoy it.


FISCAL IMPACT: \$1,750 from the developer-funded Art in Public Places fund.

FUNDING AVAILABLE: \$175,724 as of January 31, 2013; Art in Public Places Account No. 1214


Jordan Ayers, Deputy City Manager


Jeff Hood
Parks, Recreation and Cultural Services Director

JH/dkb
Attachments

APPROVED: 
Konradt Bartlam, City Manager

Deanie Bridewell

From: Kathy Grant [kathygrant@sbcglobal.net]

Sent: Monday, January 14, 2013 3:55 PM

To: Deanie Bridewell; Cathy Metcalf

Subject: AiPP- January 2013- Agenda request

Hi Deanie and Cathy,

I would like to join the AiPP committee at their January meeting to begin the conversation again regarding their support for a second ceramic mural at Heritage School. I am planning to complete the project in April or May 2013.

I am hoping this second Watershed Mural at Heritage School will be the year end finale for the 5th grade class that has been working on a yearlong study of the Mokelumne River Watershed. The first mural was completed in October 2012 by last year's 6th grade class. Thanks to grant funding from the Lower Mokelumne Partnership, this year's 5th graders were able to go to the SF Bay in November, visit the Mokelumne River Fish Hatchery in December, and are planning one more trip to the two Lodi water treatment plants. Our hope is that they become active environmental stewards in their community through this work.

Starbucks is also a partner in this effort, and I plan to meet with the new regional community work coordinator tomorrow, to discuss their future involvement in the program. Under the former coordinator, Tom Allen, local Starbucks employees acted as team leaders at the Lodi lake Coastal Cleanup in September, 2012. I would expect them to join our future fieldtrips and add their help to the mural.

I look forward to working with your group as we build bridges and work together to create art in public places on the eastside, for the good of the community.

Thanks,
Kathy

3/14/2013

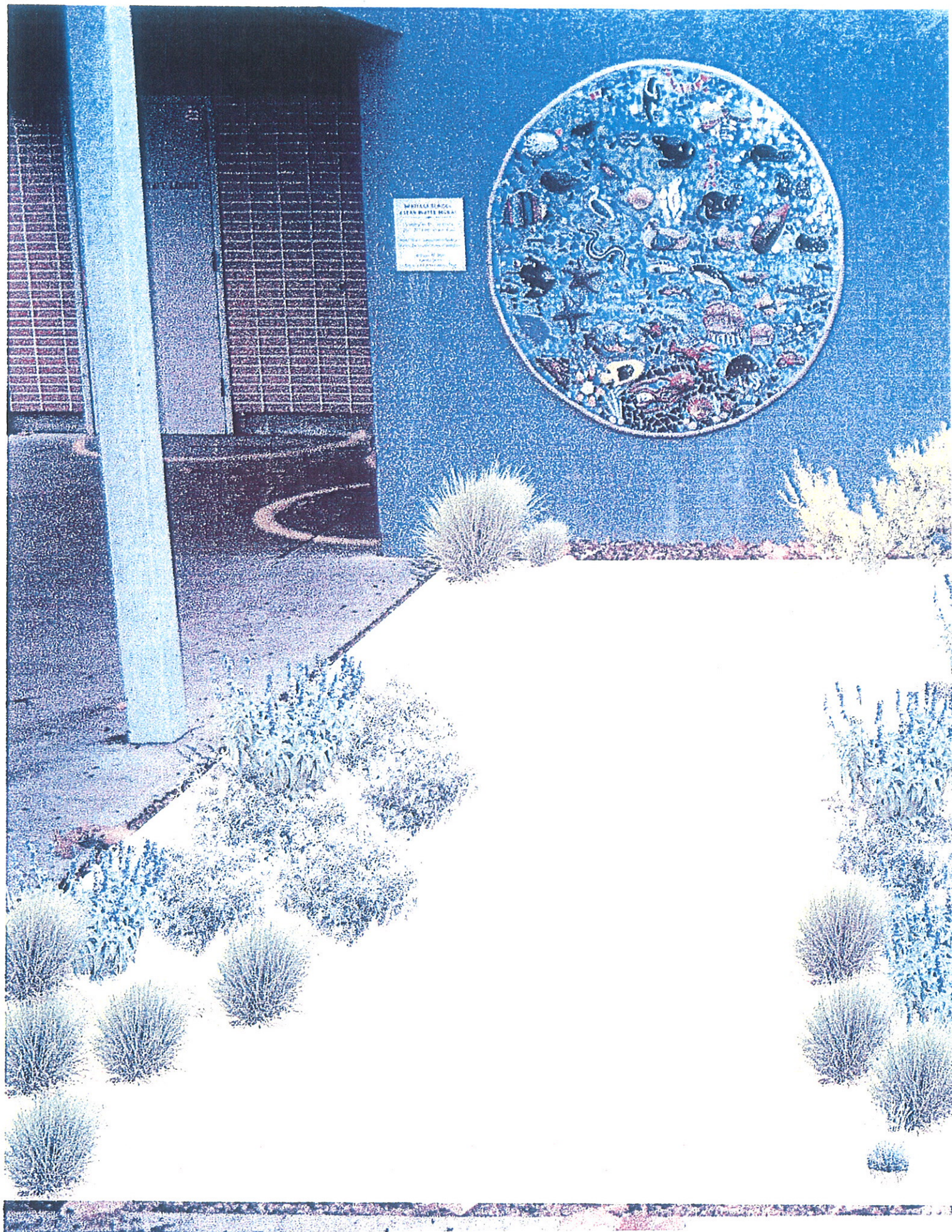
HERITAGE SCHOOL
CLEAN WATER MURAL

Created by Ms. Jacinto's
2011-2012 6th Grade Class

"Keep Streets Clean Drains to River"
We are the solution to water pollution.

October 18, 2012
Funded by the
City of Lodi Public Works Dept.





WATERSIDE SLIDE
LEARN ABOUT THE
WATERSIDE SLIDE
IN THE MUSEUM
OF THE CITY OF
SAN FRANCISCO
1970

1. AA# _____

2. JV# _____

CITY OF LODI APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	PRCS Director, Jeff Hood	5. DATE:	4/3/13
4. DEPARTMENT/DIVISION:	Parks, Recreation & Cultural Services		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	1214	N/A	3205	Fund Balance	\$1,750.00
B. USE OF FINANCING	1214	1214017	1820	Heritage School Watershed Mosaic	\$1,750.00

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

At the recommendation of the Art Advisory Board, Art in Public Places funds will be used to create a wall mosaic at the Heritage School. The project is the culmination of the Watershed Project facilitated by the Public Works Department's Watershed Coordinator.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager _____ Date _____

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2013-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROPRIATING \$1,750 FROM THE ART IN
PUBLIC PLACES FUND FOR HERITAGE SCHOOL
WATERSHED MOSAIC PROJECT

=====

WHEREAS, the Art Advisory Board seeks to use Art in Public Places funds to support a mosaic mural project at Heritage School; and

WHEREAS, this mosaic will be produced by fifth-grade "Earth Keepers Club" under the direction of the Public Works Department's Watershed Coordinator; and

WHEREAS, the students were able to spend the 2012-13 school year on several Mokelumne River Watershed study field trips; and

WHEREAS, their fifth grade science curriculum highlighted the study of watersheds, waste water treatment and water cycle in general; and

WHEREAS, this mosaic project would be the "Earth Keeper's" legacy project.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the appropriation of \$1,750 from the Art in Public Places fund for Heritage School Watershed Mosaic Project.

Dated: April 3, 2013

=====

I hereby certify that Resolution No. 2013-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2013-____

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items

Comments by the City Manager on non-agenda items

Public Hearings – None

Communications



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Post for Expiring Terms on the Greater Lodi Area Youth Commission
MEETING DATE: April 3, 2013
PREPARED BY: City Clerk

RECOMMENDED ACTION: Direct the City Clerk to post for expiring terms on Greater Lodi Area Youth Commission.

BACKGROUND INFORMATION: Several terms are due to expire on the Greater Lodi Area Youth Commission. Therefore, it is recommended that the City Council direct the City Clerk to post for the following. Government Code

Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application.

Greater Lodi Area Youth Commission

Student Appointees:

Kristen Schlader	Term to expire May 31, 2013
Emma Brink	Term to expire May 31, 2013
Michael Kinane	Term to expire May 31, 2013
Lauren Youngsma	Term to expire May 31, 2013
Manjot Sighu	Term to expire May 31, 2013
Anthony Sorbera	Term to expire May 31, 2013

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

A blue ink signature of Randi Johl, consisting of a large, stylized 'R' followed by a horizontal line.

Randi Johl
City Clerk

RJ/JMR

APPROVED:

A blue ink signature of Konrad Bartlam, consisting of a large, stylized 'K' followed by a horizontal line.

Konrad Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Designation of One Council Member to Participate in the Selection Process for Auditing Services

MEETING DATE: April 3, 2013

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Designation of one Council member to participate in the selection process for auditing services.

BACKGROUND INFORMATION: The City has solicited proposals from firms for auditing services that will cover fiscal years 2013/14 through 2015/16, with options for extension of services to the following two fiscal years, and 14 proposals were received. In 2008, proposal evaluation was completed by a team consisting of two staff members and two members of the Budget and Finance Committee. Prior to that, a Council member participated in the selection process. A team of staff members has reviewed the proposals and has narrowed the field to the top four. Staff requests that a Council Member participate in interviewing the finalists.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Jordan Ayers, Deputy City Manager/Internal Services Director

APPROVED:

Konradt Bartlam, City Manager

J-1



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1872 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20 – Electrical Service – by Repealing and Reenacting Section 13.20.315, 'Schedule EDR – Economic Development Rate,' in Its Entirety"

MEETING DATE: April 3, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1872.

BACKGROUND INFORMATION: Ordinance No. 1872 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20 – Electrical Service – by Repealing and Reenacting Section 13.20.315, 'Schedule EDR – Economic Development Rate,' in Its Entirety," was introduced at the regular City Council meeting of March 20, 2013.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.



Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: 

Konradt Bartlam, City Manager

ORDINANCE NO. 1872

AN ORDINANCE OF THE LODI CITY COUNCIL
AMENDING LODI MUNICIPAL CODE CHAPTER 13.20 –
ELECTRICAL SERVICE – BY REPEALING AND
REENACTING SECTION 13.20.315, "SCHEDULE EDR –
ECONOMIC DEVELOPMENT RATE," IN ITS ENTIRETY

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 13.20.315, "Schedule EDR – Economic Development Rate," is hereby repealed and reenacted in its entirety to read as follows:

APPLICABILITY:

- A. New Business Rate Discount. NBR discount, applicable to any new commercial or industrial customer that locates their operations/business that receives electric utility service from the City of Lodi, with the following stipulations: a customer assigned to the G1 electric utility rate shall receive a discount for twelve consecutive months of \$25 per month; and, customers assigned to the G2, G3, G4, G5, or I1 electric utility rate shall receive a discount for twelve consecutive months of five percent; and this rate discount may not be combined with any other electric discount or rate and shall only apply to the base rate. Surcharges including, but not limited to, the California Energy Commission fee, solar surcharge, public benefits charge, state energy tax, and other assessments or charges after the date of this rate schedule shall not be subject to this discount.
- B. New Jobs Rate Discount. NJR discount, applicable to any commercial or industrial customer that adds a minimum of one full-time position, and retains that position for at least twelve consecutive months, with the following stipulation: a two percent discount for one to three new positions; four percent for four to six new positions; six percent for seven to nine positions; and eight percent for ten or more new positions. The maximum discount available is eight percent; all discounts are available for twelve consecutive months; and this rate discount may not be combined with any other electric discount or rate and shall only apply to the base rate. Surcharges including, but not limited to, the California Energy Commission fee, solar surcharge, public benefits charge, state energy tax, and other assessments or charges after the date of this rate schedule shall not be subject to this discount.
- C. The Rate Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after July 1, 2013 and said utility rate discounts shall expire on June 30, 2015.

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

Approved this 3rd day of April, 2013

ALAN NAKANISHI
MAYOR

ATTEST:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1872 was introduced at a regular meeting of the City Council of the City of Lodi held March 20, 2013, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1872 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Ordinance No. 1873 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20 – Electrical Service – by Adding Section 13.20.325, 'Schedule EV – Electric Vehicle Pilot Charging Rate'"

MEETING DATE: April 3, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1873.

BACKGROUND INFORMATION: Ordinance No. 1873 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 13.20 – Electrical Service – by Adding Section 13.20.325, 'Schedule EV – Electric Vehicle Pilot Charging Rate,'" was introduced at the regular City Council meeting of March 20, 2013.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

A blue ink signature of Randi Johl, the City Clerk.

Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: A blue ink signature of Konradt Bartlam, the City Manager.
Konradt Bartlam, City Manager

ORDINANCE NO. 1873

AN ORDINANCE OF THE LODI CITY COUNCIL
AMENDING LODI MUNICIPAL CODE CHAPTER 13.20 –
ELECTRICAL SERVICE – BY ADDING SECTION
13.20.325, "SCHEDULE EV – ELECTRIC VEHICLE PILOT
CHARGING RATE"

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 13.20.325 "Schedule EV – Electric Vehicle Pilot Charging Rate," is hereby added to read as follows:

APPLICABILITY:

This schedule is applicable to all single-phase electric vehicle charging service in single-family and multi-family dwellings separately metered by the City of Lodi. This schedule shall only be available to customers who purchase and install a separate electric meter dedicated to an electric vehicle charging station.

The minimum charge is \$5.00. Between the hours of 8:00 pm to 6:00 am Monday through Friday (excluding City observed holidays) the charge for a meter dedicated exclusively to charging electric vehicles shall be a flat rate of \$0.1420/kWh plus the ECA set forth in Section 13.20.175 of this Code ("ECA"). At all other times, the charge shall be a flat rate of \$0.33000/kWh plus the ECA.

This Schedule EV may not be combined with any other electric rate or rate discount and all surcharges, including, but not limited to the California Energy Commission fee, solar surcharge, public benefits charge, state energy tax, and other assessments or charges after the date of this rate schedule shall be in addition to this rate schedule.

The Rate Schedule referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after July 1, 2013 and said utility rate discounts shall expire on June 30, 2015.

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

Approved this 3rd day of April, 2013

ALAN NAKANISHI
MAYOR

ATTEST:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1873 was introduced at a regular meeting of the City Council of the City of Lodi held March 20, 2013, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1873 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1874 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Repealing and Reenacting Lodi Municipal Code Chapter 9.12, 'Fires, Firearms and Fireworks,' in Its Entirety; and Further Repealing and Reenacting Chapter 9.13, 'Sale of Fireworks,' in Its Entirety"

MEETING DATE: April 3, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1874.

BACKGROUND INFORMATION: Ordinance No. 1874 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Repealing and Reenacting Lodi Municipal Code Chapter 9.12, 'Fires, Firearms and Fireworks,' in Its Entirety; and Further Repealing and Reenacting Chapter 9.13, 'Sale of Fireworks,' in Its Entirety," was introduced at the regular City Council meeting of March 20, 2013.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.


Randi Johl
City Clerk

RJ/JMR
Attachment

APPROVED:


Konradt Bartlam, City Manager

ORDINANCE NO. 1874

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE TITLE 9 – PUBLIC PEACE,
MORALS, AND WELFARE – BY REPEALING AND REENACTING
LODI MUNICIPAL CODE CHAPTER 9.12, “FIRES, FIREARMS
AND FIREWORKS,” IN ITS ENTIRETY; AND FURTHER
REPEALING AND REENACTING CHAPTER 9.13, “SALE OF
FIREWORKS,” IN ITS ENTIRETY

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by repealing and reenacting Chapter 9.12, “Fires, Firearms, and Fireworks,” in its entirety to read as follows:

CHAPTER 9.12

SECTIONS:

9.12.010 Discharge of Weapons and Fireworks – Fires.
9.12.020 Firearms at Lodi Lake Park.

9.12.010 Discharge of Weapons and Fireworks – Fires.

A. Any person who does any of the following without first obtaining a special permit therefore, in writing, from the Chief of Police, which permit shall designate the time and place of such firing or discharging, is guilty of a misdemeanor:

1. Fires or discharges any pistol, gun, rifle, firearm, cannon anvil loaded with powder, bow, airgun or sling, or projects any other dangerous missile within the City

B. Except as provided in Chapter 9.13 of this code, any person who does any of the following without first obtaining a special permit therefore, in writing, from the Fire Chief, which permit shall designate the time and place of such firing or discharging, is guilty of a misdemeanor:

1. Possesses, discharges, or explodes any firecrackers, firerockets, roman candles, chasers, or other fireworks of any nature or kind; or
2. Makes any bonfire of any nature or kind, or who makes any bonfire or burns any hay, straw, rubbish, shavings, or other combustible materials within the City limits.

C. The provisions of this section do not prohibit any person from shooting destructive animals within or upon his own enclosure, nor prohibit the establishment and maintenance of shooting galleries, in accordance with the ordinances of the City.

9.12.020 Firearms at Lodi Lake Park.

Any person, excepting public officers, possessing, carrying or discharging firearms within the boundaries of the lands of the City commonly known and designated as "Lodi Lake Park" is guilty of a misdemeanor.

SECTION 2. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by repealing and re-enacting Chapter 9.13, "Sale of Fireworks" in its entirety, and shall read as follows:

CHAPTER 9.13

SECTIONS:

- 9.13.010 Definitions.
- 9.13.020 Sale and Discharge—Time limit.
- 9.13.030 Permit Required—Issuance—Limitations.
- 9.13.040 Permit Application—Regulations—Limitations.
- 9.13.050 Prerequisites to Issuance of Permit.
- 9.13.060 Permit Applications—Notice of Acceptance or Rejection—Selection Procedure—Fee.
- 9.13.070 Suspension of Permit—Appeal Procedure.
- 9.13.080 Fireworks Sales Stand—Operation.
- 9.13.090 Fireworks Sales Stands—Requirements.
- 9.13.100 Fee Imposed upon Permittees.
- 9.13.110 Temporary Sales Tax Permit—Requirements.
- 9.13.120 Reserved.
- 9.13.130 Permissible Locations for Discharge.
- 9.13.140 Prohibitions on Discharge.
- 9.13.150 Reserved.
- 9.13.160 Administrative Penalties—Appeals.
- 9.13.170 Issuance of Administrative Citation—Contents.
- 9.13.180 Administrative Fines.
- 9.13.190 Right to an Administrative Hearing.
- 9.13.200 Administrative Hearing—Procedures.
- 9.13.210 Hearing Decision—Right of Appeal.
- 9.13.220 Financial Reporting.
- 9.13.230 Provisions Supplementary.

CHAPTER 9.13 FIREWORKS

- 9.13.010 Definitions.

The following words and phrases, as used in this chapter, are defined as follows:

- A. "Citee" means any person served with an administrative citation charging him or her as a responsible person for violation of this chapter.
- B. "Citation" means an administrative citation issued pursuant to this chapter to remedy a violation.

- C. "City Manager" means the City Manager of the City of Lodi and/or designee or designees.
- D. "Code" means the Lodi Municipal Code.
- E. "Code Enforcement Officer" (CEO) means any Lodi Firefighter or Lodi Police Officer and those Parks and Recreation employee's designated to have citation powers by the Parks and Recreation Director.
- F. "Dangerous fireworks" mean dangerous fireworks as set forth in California State Fireworks Law (Sections 12505 and 12561 of the California Health and Safety Code and the relevant sections of Title 19, Code of Regulations, Subchapter 6), as hereinafter may be amended from time to time, which are hereby incorporated by reference.
- G. "Director" means the City Manager and/or designee or designees.
- H. "Fire Chief" means the Fire Chief of the City of Lodi or other City Manager designee or designees.
- I. "Fireworks Task Force Costs" means those employee salary, overtime and benefit costs, disposal costs, clean up costs, and operations costs incurred by the Lodi Police, Fire, and Parks and Recreation Departments to operate a Task Force to enforce the provisions of this chapter between June 28 and July 7 of each calendar year. Fireworks Task Force Costs shall not exceed \$20,000 in the first year after the effective date of this Ordinance, adjusted by The Consumer Price Index, San Francisco, All Consumers, annually thereafter.
- J. "Fireworks Wholesaler" means any person who sells fireworks to other wholesalers or retailers for resale; or any person, other than an importer, exporter, or manufacturer, who purchases fireworks from a manufacturer, importer or exporter for resale to a retailer or any other person for resale.
- K. "Hearing Officer" means the person appointed by the City Manager to serve as the hearing officer for administrative hearings under this chapter.
- L. "Issuance" or "Issued" means any of the following:
 - a. The preparation and service of an administrative fine citation to a citee in the same manner as a summons in a civil action in accordance with Article III (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedures; or
 - b. Mailing of administrative fine citation to the citee by certified mail with return receipt to the address shown on the county's latest equalized property taxes assessment rolls; or
 - c. By personally serving the responsible party by personal delivery of the administrative fine citation or by substituted service. Substituted service may be accomplished as follows:

1. By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household, and thereafter mailing by First Class Mail, postage pre-paid, a copy to the recipient at the address where the copy was left; or
 2. In the event the responsible party cannot be served by First Class Mail, postage pre-paid, or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency or may be affected by posting the property with the administrative fine citation and mailing a copy by First Class Mail, postage pre-paid, to the responsible party in violation at the address of the property where the violation exists.
- M. "Lodi City Clerk" or "City Clerk" means the Lodi City Clerk and/or designee or designees.
- N. "Nonprofit organization" means: (1) any nonprofit association, charity, church, corporation, club, or society organized primarily for veteran, patriotic, welfare, civic, benevolent, betterment, youth activities, or charitable purposes and has obtained a nonprofit status with either the California Franchise Tax Board or the Internal Revenue Service; or (2) a group which is an integral part of a recognized nonprofit national organization having such tax exempt status; or (3) an organization affiliated with and officially recognized by an elementary, junior high school, high school, school district, and/or college that serves, in whole or in part, the residents of Lodi. To qualify as a "nonprofit" under in this definition, the entity must have a principal and permanent meeting place within the City limits of the City of Lodi.
- O. "Person" means a natural person or a legal entity that is also an owner, tenant, lessee, and/or other person with any right to possession or control of the property where a violation of this chapter occurred.
- P. "Principal and permanent meeting place" means and includes, but is not limited to, a permanent structure, playing field, geographic area, or service population which resides in or is located within the city limits of the City of Lodi.
- Q. "Residents of the City" or "City residents" means and includes owners of businesses and/or property in the city limits as well as occupants of residential dwellings within the city limits of the City of Lodi.
- R. "Responsible Person" means a person who causes a code violation to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur, or allows a violation to exist or continue. There is a rebuttable presumption that the record owner of real property, as shown on the county's latest equalized property taxes assessment rolls, and a lessee of real property has a notice of any violation existing on said property. For purposes of this chapter, there may be more than one responsible person for a violation. Any person, irrespective of age, found in violation of any provision of this chapter may be issued a citation in accordance

with the provisions of this chapter. Every parent, guardian, or other person having the legal care, custody, or control of any person under the age of 18 years, who knows or reasonably should know that a minor is in violation of this chapter, may be issued a citation in accordance with the provisions of this chapter, in addition to any citation that may be issued to the offending minor.

S. "Safe and sane fireworks" (a.k.a. "State-approved fireworks") mean safe and sane fireworks as defined in California State Fireworks Law (Sections 12529 and 12562 of the Health and Safety Code and the relevant sections of Title 19, Code of Regulations, Subchapter 6), as hereinafter may be amended from time to time, which are hereby incorporated by reference.

T. "Violation" or "Violates" refers to any violation of any provision of this chapter..

9.13.020 Sale and Discharge—Time limit.

A. Subject to the provisions of this chapter, the State Fireworks Law, Sections 12500 through 12726 of the California Health and Safety Code, and any regulations promulgated thereunder, safe and sane fireworks, as defined herein, may be sold within the city limits of the City of Lodi only during the period beginning at 12:00 noon on June 28 and shall not continue after 9:00 p.m. on July 4 of the same year. The sale of fireworks shall be permitted only from 12:00 noon to 9:00 p.m. on June 28; from 9:00 a.m. to 9:00 p.m. daily from June 29 through July 4. No fireworks classified as "dangerous fireworks" by Section 12505 of the California Health and Safety Code may be sold within the city limits of the City of Lodi.

B. Subject to the provisions of this chapter, the State Fireworks Law, Sections 12500 through 12726 of the California Health and Safety Code, and any regulations promulgated thereunder, safe and sane fireworks, as defined herein, may be discharged within the city limits of the City of Lodi only during the period beginning at 12:00 noon to 11:00 p.m. on June 28 and from 9:00 a.m. to 11:00 p.m., daily, from June 29 through July 4. No fireworks classified as "dangerous fireworks" by Section 12505 of the California Health and Safety Code may be discharged within the city limits of the City of Lodi.

C. The use or discharge of fireworks within 50 feet of any fireworks sales stand is prohibited.

9.13.030 Permit Required—Issuance—Limitations.

A. Except as provided in this chapter, it is unlawful to offer for sale or sell at retail "safe and sane fireworks" without having first applied for and been issued a permit therefor, in the manner set forth in this chapter.

B. Permits for the sale of safe and sane fireworks shall be issued only to nonprofit organizations, and such fireworks shall be sold only at the outdoor sales stands, as more specifically set forth hereinafter.

C. Permits shall be issued by lottery. The lottery shall take place at a time, place, and manner determined by the Fire Chief in accordance with administrative rules and procedures adopted by the Fire Chief. Each applicant shall receive one lot.

D. No more than six (6) such permits shall be issued and be outstanding at any time.

E. No nonprofit organization may receive more than one (1) permit for the sale of fireworks during any one (1) calendar year. Only one (1) application per school will be allowed. If an organization is affiliated with a recognized educational institution as defined in Section 9.13.010 of this chapter, but maintains a separate tax-exempt status with the Internal Revenue Service or the California Franchise Tax Board, said nonprofit organization shall be allowed a separate application.

F. No nonprofit organization may be awarded a permit for more than two (2) consecutive calendar years.

G. Any applicant that has had a fireworks sales permit suspended or revoked within the prior three (3) calendar years shall be eligible for a fireworks sales permit only upon demonstrating to the Fire Chief's reasonable satisfaction that suitable arrangements have been made to preclude future violations.

9.13.040 Permit Application—Regulations—Limitations.

A. All applications for a permit to sell fireworks may be filed with the Lodi Fire Department between the first business day in March and the last business day in March of each year. All applications shall be accompanied by an application fee in an amount as may be established from time to time by resolution of the City Council.

B. All permit applications must be properly completed and submitted to the Lodi Fire Department before the close of business on the last business day in March. Permit applications that are incomplete or filed late shall not be processed.

C. All permit applications shall be made in writing on a form supplied by the Lodi Fire Department. A completed permit application shall be accompanied by an assurance that, if the applicant is issued a permit, the applicant shall, before receipt of such permit, deliver to the City the following items and/or information:

1. Proper identification and signature of the permit applicant;
2. The proposed location of the fireworks sales stand;
3. A detailed description of the fireworks proposed to be sold;
4. The written consent of the owner of record and/or lessor in control of the property upon which the proposed sales stand will be located;

5. The fireworks distributor's business name, address, telephone number, and person that is the point of contact;
6. A site plan, with dimensions indicating the location of all existing buildings, structures, driveways, flammable materials, and rights of way where the proposed sales stand will be located;
7. Proof of a temporary sales tax permit from the State Board of Equalization or proof of application;
8. A certificate of insurance evidencing current and valid commercial general liability, property damage, and product liability insurance of not less than \$2,000,000.00 combined single limit, from a company authorized to transact the business of insurance in the state of California. The insurance company must have an AM Best Rating of not less than A-;
9. The certificate of insurance must provide an appropriate additional insured endorsement to the insurance policy or policies, which names the City of Lodi and its officers, employees, agents, and volunteers as additional insured's under the policy or policies;
10. Proof of a State Fire Marshal retail fireworks license;
11. Such other information and documentation that the Fire Chief in his or her reasonable discretion may require;
12. Temporary Event Permit: Each applicant shall also file a Temporary Event Permit Application as required by Lodi Municipal Code Section 17.78.050 with the Community Development Department;
13. Reimbursement Agreement. An Agreement in a form to be obtained from the City Attorney's Office between the City of Lodi and the Permittee's fireworks distributor, requiring the distributor to indemnify the City for that distributor's pro rata share of all Fireworks Task Force Costs incurred during the period that fireworks may be sold under this chapter.

D. Each applicant shall file with the City, at the time of filing the permit application, a nonrefundable application fee as may be established from time to time by resolution of the City Council. If selected in the lottery as a permittee, a Letter of Credit, certificate of deposit, or a surety bond made payable to the City in the amount as set by resolution of the City Council to assure compliance with the provisions of this chapter shall be filed with the City. Such deposit certificate or bond shall be refundable upon compliance with the provisions and requirements of this chapter, including but not limited to, the removal of the sales stand, cleaning of the site, and full passage of the City's final site inspection.

E. The Fire Chief is authorized to promulgate administrative regulations and procedures necessary for the successful and effective implementation of this chapter including rules and procedures governing the submission of applications for permits to sell safe and sane fireworks, inspections of fireworks stands, operation of fireworks stands, and such regulations relating to the sale of safe and sane fireworks as may be

necessary for the protection of life and property. Said administrative regulations and procedures shall be set forth in writing and are subject to prior approval by the City Attorney.

9.13.050 Prerequisites to Issuance of Permit.

Permits to sell fireworks shall only be issued to applicants that meet all of the following qualifications:

A. The applicant must be a nonprofit organization that conducts its activities primarily for the benefit of the City and its residents.

B. The applicant must have been organized and established in the city limits of the City of Lodi for a minimum of one (1) year continuously preceding the filing of application for the permit, and must have a bona fide membership of at least 10 members who are residents of the City.

9.13.060 Permit Applications—Notice of Acceptance or Rejection—Selection Procedure—Fee.

A. The Fire Chief shall notify all applicants by the third Monday in April regarding the results of the lottery and the applicants that have been granted permits, , and said successful lottery/prospective permittees will have until the close of business on the third Monday in May to submit their final paperwork required in subsection C of Section 9.13.040. If any successful lottery/prospective permittee fails to submit its paperwork by the deadline, in any given year, the Fire Chief shall give notice on the third Wednesday in May to the requisite number of substitute lottery applicants that they have until the second Monday in June to submit paperwork as required by subsection C of Section 9.13.040.

B. All applicants that have been granted permits shall, prior to issuance of the permit, pay a permit fee in an amount established from time to time by resolution of the City Council. The permit fee is intended to cover the cost of the first inspection of the fireworks stand. Any necessary subsequent inspections shall be subject to a re-inspection fee in an amount as established from time to time by resolution of the City Council. The Letter of Credit, certificate of deposit, or a surety bond made payable to the City and provided by the applicant pursuant to subsection D of Section 9.13.040 shall be held by the City to be available to cover the cost of removal of the fireworks sales stand and site clean-up in accordance with subsection P of Section 9.13.090.

C. Each applicant that has been granted a permit shall have no less than two (2) members of its sales staff attend an operator safety seminar approved and supervised by the Lodi Fire Department and provided by a licensed firework's wholesaler or the City of Lodi Fire Department.

9.13.070 Suspension of Permit—Appeal Procedure.

A. The Fire Chief may suspend immediately and without notice or hearing the permit of any permittee that violates any California statute, rule, regulation, or this code while operating or preparing to operate a fireworks sales stand during or immediately

preceding any period of sale. If the Fire Chief reasonably believes that a violation has occurred during, immediately preceding, or immediately following the authorized period of sale, he or she shall have power to prohibit the permittee from acquiring a fireworks sales permit in the future.

B. Any decision of the Fire Chief made pursuant to this chapter shall be subject to review by the City Manager. When the decision being appealed affects the current sale period, such review shall be held at the earliest possible time that the permittee, City Manager and the Fire Chief can schedule a hearing for such review. For decisions that do not affect the current sales period, the hearing shall be held within ten (10) City business days after the request for hearing, which request must be made in writing within ten (10) calendar days after notice of the decision being appealed. The City Manager may set aside the decision, modify it, or revoke in his or her reasonable discretion. The decision of the City Manager shall be final.

9.13.080 Fireworks Sales Stand—Operation.

A. It is unlawful for the permittee to allow any person other than individuals who are members and/or volunteers of the permitted nonprofit organization, or the spouses or adult children of such members, to sell or otherwise participate in the sale of fireworks.

B. It is unlawful for the permittee to pay any consideration to any person for selling or otherwise participating in the sale of fireworks.

C. Each sales stand must have a minimum of one (1) adult (21 years of age or older) in attendance and in charge thereof while fireworks are stored therein.

D. No person may sleep in or remain in the stand after close of business.

E. All unsold fireworks must be removed from the stand during non-sale hours and stored in a centrally located locked metal container or other secure and fire safe structure during non-sale periods. Each fireworks distributor shall provide a single storage location and container for storage of its stand's fireworks. The container shall be approved by the Fire Chief and located in an M1 or M2 zoned location approved by the Community Development Director and the Fire Chief.

F. Each sales stand must have on duty at all times during the sales period, at least one (1) salesperson (21 years of age or older) who attended the City of Lodi Fire Department operator safety seminar, required pursuant to subsection C of Section 9.13.060.

G. The sale of fireworks shall conform to restrictions of Section 9.13.020.

H. All unsold fireworks and accompanying litter shall be removed from the sales location by 10:00 p.m. on July 4 and the sales stand shall be removed by 12:00 noon on July 9 of each year.

I. Permittees shall require all persons who appear to be under the age of 30 years to provide proof of age and shall make no sales of fireworks to persons younger than 18 years of age.

9.13.090 Fireworks Sales Stands—Requirements.

All retail sales of “safe and sane fireworks” shall be made only from within a temporary fireworks sales stand, and sales from any other building or structure is hereby prohibited. Fireworks sales stands are subject to the following requirements:

- A. Fireworks sales stands shall be put in place by the permittee no earlier than 8:00 a.m. on June 24 of each year.
- B. No fireworks sales stand shall be located within 25 feet of any other building or structure, within five feet of any curb line, or within 100 feet of any gasoline pump.
- C. The stand must be located on a developed lot with paved parking areas and driveway approaches and the stand itself must be located on a paved surface.
- D. The stand may not occupy parking spaces required for the primary use of the site, or interfere with required access, circulation, fire lanes or fire hydrants.
- E. No fireworks stand shall be located within 100 feet of any building used as a school, day care, hospital, place of detention, public garage, or place of assembly that can accommodate 300 or more occupants, or within 100 feet of a residential zone. Fireworks stands shall only be permitted in a district zoned CS, C2, CM, M1, or M2 or the PD designation equivalents.
- F. A minimum of 20 feet of separation shall be provided between the fireworks sales stand and any vehicle(s), with the exception of loading or unloading the permittee’s supply vehicle.
- G. No weeds or other combustible materials are permitted within 25 feet of the fireworks sales stand.
- H. All fireworks sales stands shall be preapproved by the Fire Chief prior to opening for business.
- I. All general use 15 amp and 20 amp receptacles shall have listed ground-fault circuit-interrupter protection and electrical installations shall be approved by the City Building Inspector and/or the Fire Department prior to the stand opening for business.
- J. All fireworks sales stands shall be built and maintained in accordance with the safety requirements of the City prior to opening for business.
- K. No generators shall be allowed within 25 feet of any fireworks sales stand.

- L. Smoking and the consumption of alcoholic beverages shall not be allowed within 50 feet of any fireworks sales stand and "No Smoking" signs shall be displayed on and in the fireworks sales stand.
- M. Permittees shall place no signs in the public right-of-way.
- N. Each fireworks sales stand shall be provided with two (2), two-and-one-half (2.5) gallon pressurized water type fire extinguishers, or two (2) 2A10BC dry chemical/powder type fire extinguishers, in good working order, and easily accessible for use in case of fire.
- O. The fireworks sales stand shall be removed from the temporary location by 12:00 p.m. on July 9 of each year, all unsold fireworks by 10:00 p.m. July 4, and any accompanying litter shall be cleared from the location by 5:00 p.m. on July 5. If the permittee does not remove the stand and/or clean the sales site as required by this chapter, the City may do so, or cause the same to be done, and the reasonable cost thereof shall be charged against the permittee, and his or her deposit, certificate, or surety. In addition, any permittee found to be in violation of this section shall be subject to an administrative penalty imposed in accordance with Section 9.13.160.
- P. The permit to sell fireworks shall be displayed in a prominent place in the fireworks sales stand and shall at all times be visible to members of the public.
- Q. Each permittee under this chapter shall display a poster measuring 18 inches by 32 inches that shall be posted at the point of sale of the fireworks and hand out a flyer with each sale to notify purchasers of all applicable restrictions established by this chapter. All information shall be provided in English and Spanish. The Permittee shall provide the posters and fliers, which shall be approved by the Fire Chief prior to the permittee opening for business.
- R. Fireworks Stands shall be either 24 or 32 feet long by 8 feet wide. 24 foot stands shall have two exits and a maximum occupancy of 6 people. 32 foot stands shall have 2 exits and a maximum occupancy of 8 people.

9.13.100 Fee Imposed Upon Permittees.

A. The City of Lodi will require each applicant receiving a permit to pay a fee, as described in Section 1(e)(3) of Article XIII C of the California Constitution, and the City of Lodi will require each permittee to pay their pro rata portion of the costs that the City of Lodi has incurred related to the following:

- 1. Processing and issuing permits;
- 2. Inspection of fireworks stands;
- 3. Public education and awareness campaign regarding the safe and responsible use of Safe and Sane Fireworks and the dangers and risks posed by the use of illegal fireworks; and

4. With respect to the sale and use of Safe and Sane Fireworks, including extra personnel time, and cleanup of fireworks trash and debris. "Extra Personnel Time" shall be defined as employee or contracted employee time that the City of Lodi would not otherwise incur but for the sale and use of Safe and Sane Fireworks in the City of Lodi and is the amount to be paid by the Fireworks Wholesaler pursuant to paragraph 9.13.040(c)14.

B. No permittee may offer for sale or sell safe and sane fireworks, unless and until the permittee has paid to the City the fee imposed by this section.

C. The fees established pursuant to this section are not intended to generate excess revenue for the City, but rather to attempt to offset costs.

9.13.110 Temporary Sales Tax Permit—Requirements.

A. Each permittee must obtain a temporary sales tax permit from the State Board of Equalization.

B. The temporary sales tax permit shall be displayed in a prominent place in the fireworks sales stand and at all times be visible to members of the public.

9.13.120 Reserved.

9.13.130 Permissible Locations for Discharge.

The discharge of fireworks in the City shall be limited to private property except as otherwise provided in this chapter. No fireworks shall be discharged on public, or semipublic properties, or in a public street or right-of-way except in those areas approved in writing by the Fire Chief. For purposes of this chapter, "semipublic" is defined as private property generally open for use by the public but not owned or maintained by a governmental body. Such property includes without limitation church property, shopping center property, and other property generally used by patrons of a commercial or private business establishment, but not including private streets in residential areas.

9.13.140 Prohibitions on Discharge.

A. It is unlawful for any person to ignite, explode, project, or otherwise fire or use any fireworks, or permit the ignition, explosion, or projection thereof, upon, over, or onto the property of another without his or her consent, or to ignite, explode, project, or otherwise fire or make use of, any fireworks within 10 feet of any residential dwelling or other structure used as a place of habitation by human beings.

B. Except as provided in subsection C of this section, it is unlawful for individuals under 18 years of age to sell, purchase, possess, use, or discharge "safe and sane fireworks."

C. It is unlawful for any person having the care, custody, or control of a minor under the age of 18 years to permit such minor to discharge, explode, fire, or set off any dangerous, illegal fireworks, at any time, or to permit such minor to discharge or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this chapter.

9.13.150 Reserved.

9.13.160 Administrative Penalties—Appeals.

A. This chapter authorizes the imposition of administrative fines on any person who violates any provision of this chapter in order to encourage and obtain compliance with the provisions of this chapter for the benefit and protection of the citizens of the City of Lodi. This chapter governs the imposition, enforcement, collection, and administrative review of all administrative fines, related to: the possession, use, storage, sale and/or display of those fireworks classified as "dangerous fireworks" in California Health and Safety Code Section 12500, et seq., with the exception of a pyrotechnic licensee when operating pursuant to that license; and the use of "safe and sane fireworks" as defined in California Health and Safety Code Section 12500 et seq. on or at dates, times and/or locations other than those permitted by this chapter. Said administrative fines are imposed under authority of Government Code Section 53069.4, Health and Safety Code Section 12557, and the police power of the City of Lodi.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the City of Lodi; and the issuance of a citation to any person constitutes but one remedy of the city to redress violations of this chapter by any person. By adopting this chapter, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this chapter by any person, which this city may otherwise pursue.

C. The imposition of fines related to "dangerous fireworks" under this chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this chapter related to "dangerous fireworks" shall not be subject to Health and Safety Code Section 12706, which section provides that certain fines collected by a court of the state be deposited with, and disbursed by, the County Treasurer. However, the city shall provide cost reimbursement to the State Fire Marshal pursuant to regulations to be adopted by the State Fire Marshal addressing the State Fire Marshal's cost for the transportation and disposal of "dangerous fireworks" seized by the city, which costs will be part of any administrative fine imposed. Unless and until said regulations have been adopted by the State of California, the city shall hold in trust \$250 or 25% of any fine collected, whichever is greater, to cover the cost reimbursement to the State Fire Marshal for said cost of transportation and disposal of the "dangerous fireworks."

E. Because of the serious threat of fire or injury posed by the use of "dangerous fireworks" that can result from persistent or repeated failures to comply with the provisions of this chapter and the effect of such conditions or activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety, and welfare, this chapter imposes strict civil liability upon the owners of real property for all violations of this chapter existing on their real property. Each individual use, display, and/or possession shall constitute a separate violation and each shall be subject to a separate administrative fine.

9.13.170 Issuance of Administrative Citation—Contents.

A. Whenever a Code Enforcement Officer (CEO) determines that a violation of the code has occurred, the CEO may issue an administrative citation on a city-approved form listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this chapter.

B. Each administrative citation shall contain the following information:

- a. The name, mailing address, date of birth, CDL number (if available), and home or business telephone number of the responsible person charged with any violation of this chapter;
- b. The address or description of the location of the violation;
- c. The date or dates on which the person violated this chapter;
- d. The section or sections of this chapter that were violated;
- e. A description of the violation(s);
- f. The amount of the administrative fine for each violation, the procedure in place to pay the fines, and any late fee and interest charge(s), if not timely paid, and notice that if the city is required to take action to collect such fines, the responsible person may be charged costs and attorney's fees;
- g. Notice of the procedure to request an administrative hearing to contest the citation (including the form to be used, how to obtain the form, and the period within which the request must be made in order for it to be considered timely);
- h. The names, addresses, and telephone numbers of any witnesses to the violation(s);
- i. The name and signature of the CEO who issued the citation and the name and signature of the citee, if he or she is physically present and will sign the citation at the time of its issuance. The failure or refusal of a citee to sign a citation or provide the information required on the citation, shall not affect its validity or any related subsequent proceedings, nor shall signing a citation constitute an admission that a person is responsible for a violation of this chapter;
- j. Any other information deemed necessary by the director for enforcement or collection purposes.

9.13.180 Administrative Fines.

A. Each person who violates any provision of this chapter as it relates to the possession, use, storage, sale and/or display of "dangerous fireworks" shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 1,000	\$ 250	\$ 1,250
Second	\$ 2,000	\$ 500	\$ 2,500
Third	\$ 3,000	\$ 1,000	\$ 4,000

B. Each person who uses "safe and sane fireworks" on or at dates, times, and/or locations other than those permitted by this ordinance shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 250	\$ 75	\$ 325
Second	\$ 500	\$ 150	\$ 650
Third	\$ 750	\$ 300	\$ 1,050

C. In the case of a violation of any of the provisions listed above, the administrative fine(s) shall be due and payable within 30 calendar days from the issuance of the administrative fine citation, and the citee shall be required to abate the violation, and surrender all dangerous fireworks to the CEO, immediately. For penalties not paid in full within that time, a late charge in the amount set forth above is hereby imposed and must be paid to the city by the citee. Fines not paid within the time established by this section shall accrue interest at the prevailing established rate. On the second and each subsequent time that a person is issued a citation for the same violation in any 12-month period, the fine is increased as indicated above and the citee shall be liable for the amount of the new fine until it is paid, in addition to being responsible for payment of previous fines.

D. All administrative fines and any late charges and interest due shall be paid to the city at such a location or address as stated on the citation, or as may otherwise be designated by the City Manager. Payment of any fine or fines shall not excuse the citee from complying with the provision of this chapter so violated. The issuance of the citation and/or payment of any fine shall not bar the city from employing any other enforcement action or remedy to obtain compliance with the provisions of the code so violated including the issuance of additional citations and/or criminal prosecution.

E. Upon confirmation of the citation or when the citation is deemed confirmed, all unpaid administrative fines, late fees, and/or interest shall constitute a judgment which may be collected in any manner allowed by law for collection of judgments including but not limited to recordation to create a lien on any real property owned by the responsible person. The city shall be entitled to recover its attorney's fees and costs incurred in collecting any administrative fines, late charges, and/or interest.

F. Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of this chapter, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of this chapter.

9.13.190 Right to an Administrative Hearing.

A. Any citee may contest the violation(s), or that he or she is a responsible person, by filing a request for an administrative hearing on a city-approved form with the Lodi Fire Chief's office within 30 calendar days from the issuance date of a citation. If the Fire Chief does not receive the request in the required time period, the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.

B. No fees shall be charged for the filing of a request for a hearing.

C. Citees must deposit the full amount of the penalty listed on the citation on or before the request for a hearing is filed. Failure to deposit the full amount of all penalties within the required time period, or the tender of a non-negotiable check, shall render a request for an administrative hearing incomplete and untimely. Penalties that are deposited with the city shall not accrue interest. Penalties deposited shall be returned to the person who deposited them if the citation is overturned.

D. A request for a hearing shall contain the following:

- a. The citation number;
- b. The name, address, telephone number, and any facsimile numbers and e-mail addresses of each person contesting the citation;
- c. A statement of the reason(s) why a citation is being contested;
- d. The date and signature of the citee(s).

E. The city will notify all persons who file a request for a hearing in writing by First Class Mail of the date, time, and place set for the hearing at least 10 calendar days prior to the date of the hearing. Service of this notice is deemed complete at time of mailing. The failure of a citee to receive a properly addressed notice shall not invalidate the citation or any hearing, city action, or proceeding conducted pursuant to this chapter.

F. The hearing will be conducted within 60 calendar days of the date a timely and complete request is received by the Fire Chief's office.

G. If the CEO submits an additional written report concerning the citation to the city for consideration at the hearing, the CEO shall also serve a copy of such report by First Class Mail on the person requesting an administrative hearing no less than seven (7) calendar days prior to the date of the hearing. Failure to receive said report shall not invalidate the citation or any hearing, city action, or proceeding pursuant to this chapter.

9.13.200 Administrative Hearing—Procedures.

A. The hearing officer designated or appointed by the City Manager shall hear all requests for administrative hearings of administrative fines in accordance with the procedures established herein.

B. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Photographs of seized fireworks shall be admissible evidence of the violation. The city bears the burden of proof to establish a violation and responsibility therefore by a preponderance of evidence. The citation is prima facie evidence of the violation, however, the CEO who issued the citation is required to attend or participate at the hearing. The citee(s) and CEO, if present, shall have an opportunity to present evidence and witnesses and to cross-examine witnesses.

C. A citee may appear at the hearing in person or by written declaration executed under penalty of perjury. Said declaration and any documents in support thereof shall be tendered to and received by the city at least seven (7) business days prior to the hearing. If the citee fails to attend or does not submit a written declaration in a timely manner, he or she shall be deemed to have waived the right to a hearing. In such an instance, the hearing officer shall cancel the hearing and not render a decision. In such instances, the citation shall be deemed confirmed.

D. Hearings may be continued once at the request of a citee or the officer who issued the citation. The hearing officer may also continue the hearing for cause.

9.13.210 Hearing Decision—Right of Appeal.

A. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or overturn the citation and shall state the reasons therefore.

B. The hearing officer shall serve citee(s) by First Class Mail with a copy of the written decision. The date the decision is deposited with U.S. Postal Service shall constitute the date of its service. The failure of a citee to receive a properly addressed decision shall not invalidate any hearing, city action, or proceeding conducted pursuant to this chapter.

C. The decisions of the hearing officer may be appealed by the citee to the City Council within 30 calendar days after the date of service of the decision. Each decision shall contain a statement advising the citee of this appeal right and the procedure for its exercise.

D. If a hearing officer's decision is not appealed in a timely manner, the decision shall be deemed confirmed.

E. If a responsible person prevails on appeal, the city shall reimburse his or her fine deposit within 30 calendar days of the City Council's decision on the appeal.

9.13.220 Financial Reporting.

On or before September 1 of any year authorized pursuant to a permit, the permittee shall submit to the City Clerk a financial statement by the treasurer or financial officer of the permittee setting forth the total gross receipts from the fireworks stand operated by the permittee; all expenses incurred and paid in connection with the purchase of fireworks and the sale thereof; and the most recent report filed by the permittee to the State Board of Equalization. The filing of such statement shall be a condition precedent to the granting of any subsequent permit under this chapter.

9.13.230 Provisions Supplementary.

The provisions of this chapter are supplementary to the provisions of the Fire Code of the City of Lodi. In case of a direct conflict between the provisions of the Fire Code of the City, and the provisions of this chapter, the provisions of this chapter shall prevail. Except with respect to such direct conflict, the provisions of the Fire Code of City of Lodi shall remain in full force and effect.

SECTION 3. No Mandatory Duty Of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Non-Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall invalidate the entire ordinance. To this end, the provisions of this ordinance are not severable. The City Council hereby declares that it would not have adopted this ordinance if any portion thereof is determined to be invalid.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 3rd day of April, 2013.

ALAN NAKANISHI
Mayor

Attest:

RANDI JOHL, City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1874 was introduced at a regular meeting of the City Council of the City of Lodi held March 20, 2013, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 3, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1874 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

Adjournment